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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 08-13555-scc

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In the Matter of:

LEHMAN BROTHERS HOLDINGS INC.,

Debtor.

- - - - -x

United States Bankruptcy Court
One Bowling Green
New York, New York

February 16, 2017
10:09 AM

B E F O R E:
HON. SHELLEY C. CHAPMAN
U.S. BANKRUPTCY JUDGE

1 08-13555-scc Lehman Brothers Holdings Inc.
2 Ch 11
3 Trial on Lehman's Objection to Claims of QVT [Doc #17468
4 Debtors' One Hundred Fifty-Fifth Omnibus Objection to Claims]

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P R O C E E D I N G S

THE COURT: Good morning. We're ready when you are,
Mr. Tracey.

MR. TRACEY: QVT calls Yi Cen.

(Pause)

THE COURT: Good morning, Mr. Cen. Would you raise
your right hand, please?

(Witness sworn)

THE COURT: All right. Please have a seat and make
yourself comfortable. Let us know at any time if you would
like to take a break.

DIRECT EXAMINATION

BY MR. TRACEY:

Q Good morning, Mr. Cen.

A Good morning.

THE COURT: I'm going to ask you to pull the
microphone a little bit towards you --

THE WITNESS: Okay.

THE COURT: -- and maybe bend it down a little bit
and let's see if that's better.

THE WITNESS: Better?

THE COURT: All right, Karen? (Indiscernible).

THE WITNESS: Is better? No?

THE COURT: Why don't you go --

THE WITNESS: Hello.

1 (Pause)

2 BY MR. TRACEY:

3 Q So let's do a test. Could you give us your name for the
4 record, please?

5 A Yes. Can you hear me?

6 THE REPORTER: Yes.

7 THE WITNESS: Okay. My name is Yi Cen.

8 MR. TRACEY: Is that okay?

9 THE WITNESS: Is that fine?

10 THE REPORTER: Yes.

11 THE WITNESS: Okay.

12 MR. TRACEY: Okay. Great.

13 BY MR. TRACEY:

14 Q Mr. Cen, could you tell us a little bit about your
15 background, your educational background, please?

16 A Sure. So I start on my college. I went to college in
17 Shanghai, China, University of -- Fudan University. And after
18 graduate, I came here for studying Ph.D. Is that clear? So I
19 got my Ph.D. from University of Pennsylvania in 1994.

20 Q Thank you. And could you tell us your employment history
21 after college?

22 A Sure. So I went on to do a post doc for the University of
23 Rochester at the Fermilab National Lab in Chicago for about a
24 year. Okay.

25 THE REPORTER: (Indiscernible).

1 THE WITNESS: Okay.

2 So after I received my Ph.D., went on to do a post-
3 doctor study with University of Rochester but stationed in
4 Fermi National Lab in Chicago. After a year of post-doc study,
5 I went -- got a job at the Theodore Equipment back in New
6 Jersey. And a year later, I start work for Merrill Lynch at
7 downtown.

8 Q And after your job in Merrill Lynch, where did you work?

9 A Yeah. After -- I don't remember, a year or a little over
10 a year in Merrill Lynch, I got a job in Deutsche Bank. I
11 started Deutsche Bank at the risk management department. Maybe
12 a year or a year and a half later, the department restructured
13 and I went on to start work for a proprietary group called QVT
14 and was --

15 Q Proprietary training? Sir?

16 A Okay. So that --

17 Q And when did you start working there?

18 A I don't remember exact year, '98 or '99.

19 Q And did you later leave Deutsche Bank?

20 A Yeah. So 2004 is the year when the group spin off on
21 Deutsche Bank and start fund called QVT Financial. So we, as a
22 group, all left Deutsche Bank a year.

23 Q And what was your position at QVT?

24 A So there's a -- so when I started QVT, I was an analyst
25 and then I graduated and became a portfolio manager.

1 Q And what was your position in 2008?

2 A 2008, I was portfolio manager mainly responsible for the
3 book (indiscernible) credit and capital (indiscernible) charge.

4 Q And were you a partner of QVT?

5 A Yes, I was.

6 Q And were you a managing member?

7 A No.

8 Q And did you have positions in 2008 that were with Lehman
9 Brothers?

10 A Yes. We had a lot of single-name CDS positions, was a
11 counterparty in Lehman Brothers.

12 Q And let me ask you now after -- did there come a time when
13 you left QVT?

14 A 2010 is the year I left the QVT, yeah.

15 Q And what is your positioned employment now?

16 A So after I left the QVT, I worked with (indiscernible) to
17 start a company. I called it Lease Hill Capital Management.
18 So we tried to manage our own money and some other friends and
19 family friends' money.

20 Q Okay. So I'd like to take you back, if I can, to
21 September of 2008. Did there come a time when you and your
22 partners at QVT had concerns about Lehman's financial
23 viability?

24 A Yes.

25 Q And --

1 A In the weeks lead to the bankruptcy, we were aware of
2 exposure to the Lehman.

3 Q And did you take any steps to address that exposure to
4 Lehman?

5 A Yes. We were try to reduce all the derivative exposure to
6 the Lehman Brother and try to find a common party that will
7 take Lehman.

8 Q And were you successful in doing that?

9 A Not very successful.

10 Q And what was the challenge with that?

11 A I think it when you call all the brokers, everybody is not
12 willing to take exposure from Lehman when the situation
13 evolved. And so, when you call several brokers and you don't
14 get (indiscernible) commitment to do the trades with you.

15 Q So I'd like to now take you to September 15th, 2008. So
16 you recall learning that Lehman had filed for bankruptcy
17 protection?

18 A Yes. I learned from the media but also we were closed
19 monitor the situation all day. So we had a few telephone
20 conversation with banking partners and partners of QVT.

21 Q And when you say the whole day, do you mean September 14th
22 or September 15th?

23 A Well, I think we had -- I don't recall but at least for
24 me, I'd be monitoring both.

25 Q And what steps did you take, if any, after you learned of

1 the Lehman filing with regard to your positions with Lehman?

2 A So on the -- I think it was the afternoon, late afternoon,
3 we got the news that Lehman was filing. So I think we had an
4 emergency telephone conference call. And we were basically
5 prepared to going to the next day to try to repair all the
6 hedges that we had with Lehman with some other counterparties.

7 Q To repair all the hedges. What do you mean by that?

8 A I mean, if there's a trade that -- with Lehman, so we need
9 to find the trades to replace those trades.

10 Q And did you -- after learning of the actual filing, did
11 you attempt to replace those hedges?

12 A Yes. So September 15th -- September 15th, that's the day
13 -- Monday -- is that Monday? So Monday we come in very early
14 and we start immediately make phone calls for all the phone
15 calls to all the brokers, try to get the trades done and been
16 working for days.

17 Q And were you able to accomplish any replacement trades?

18 A We did some. I'm not sure how many. But very difficult.

19 Q Why was it difficult?

20 A I think it was a panic and there was also a lot of parties
21 probably calling for doing the same trades. So the brokers are
22 not very committal to do the trades. So it's very difficult.

23 Q Did there come a time when you participated in the
24 calculation of QVT's losses as a result of the termination of
25 the positions with Lehman?

1 A Yes, I did.

2 Q And do you recall approximately when that occurred?

3 A I think it was one of the weekends after the bankruptcy
4 filing, the weekend.

5 Q And do you recall who else was involved in that process?

6 A I think mainly all the -- all the traders that responsible
7 for their book involving the calculation. I mean, mostly
8 (indiscernible) and (indiscernible).

9 Q And can you describe your role in the calculation process?

10 A Yes. My role is -- I was responsible for most of the
11 single-name CDS and some of the index CDS trades and the book
12 called Acquittal of Charge book. So I was the one responsible
13 for calculating most of these trades.

14 Q Okay. I'd like to show you a document now. And the
15 document will come up on your screen. And it's Claimant's
16 Exhibit 2108.

17 Mr. Cen, do you recall seeing this document before?

18 MR. TRACEY: If you could scroll to the left. Why
19 don't you go to "Lehman's Positions - Master" and scroll to the
20 left? Thank you.

21 BY MR. TRACEY:

22 Q Do you recall seeing that document before?

23 A Yeah. I think this is the one, the aggregate calculation
24 sheet.

25 Q And let's turn to the sheet marked "Lehman's Positions -

1 Cen".

2 A Yeah.

3 Q Can you identify that sheet?

4 A Yes. That's a sheet I -- I could use and sent to Joel.

5 Q And what was the purpose of you preparing that sheet?

6 A To calculating the amount of loss.

7 MR. TRACEY: So if we could -- John, could we filter
8 it to just show the positions that have the name "Cen" under
9 column BC, please?

10 I'm sorry. Going back to "Positions" there. Thank
11 you.

12 (Pause)

13 BY MR. TRACEY:

14 Q So we filtered that summary sheet to show only the
15 positions that have your name next to them. If you would just
16 look at those positions and tell us generally whether those
17 appear to be -- are they some of the positions that you valued?

18 A Yes.

19 MR. TRACEY: Could you scroll down?

20 THE WITNESS: Yeah. I can recognize them, yes.

21 BY MR. TRACEY:

22 Q Okay. What I'd like to do is ask you if you can recall
23 the price sources that you used to value the Lehman positions.
24 And when I ask you these questions, I want you to only describe
25 what you recall from the period September 15th, 2008 until

1 October 15th, 2008 which is when the loss calculation went in.
2 So if you can't remember what you did during that period, we
3 don't want you to testify about it. We just want you to
4 testify about that period.

5 A Okay.

6 Q So do you recall from that period what price sources you
7 used to value the positions?

8 A The prices -- the pricing source -- foreign brokers that
9 we trade with, broker --

10 THE REPORTER: (Indiscernible).

11 THE WITNESS: Oh, okay.

12 Foreign brokers that we trade with and we have a
13 source from -- like if we have a name that we actually did a
14 trade replacement, these are the -- also the source. And the
15 source that -- also we have a sheet that we send out to all the
16 brokers to solicit a quote. And then there's also the last
17 resource (indiscernible).

18 Q Okay. I'd like to maybe focus first on the positions that
19 you used a replacement trade to value the position.

20 MR. TRACEY: And so, John, if we could go to BP and
21 filter for replacement.

22 BY MR. TRACEY:

23 Q Let me direct your attention to rows 220, 221, 228, 229,
24 378, 379, 770 and 771. Are those -- do you recognize those as
25 positions that you valued using a replacement trade?

1 A Yeah, I recognize them, yeah.

2 Q Let me now direct your attention to a document in the book
3 that's in front of you. And if you could turn to page -- or
4 Claimant's Exhibit 2142 which is, I think, the second document
5 in there.

6 A Yes.

7 Q If you could turn to those documents and identify what
8 they are?

9 A So this seems to be a e-mail I forwarded from Bloomberg to
10 the -- to our central deposit trades to capture a trade. That
11 says -- and I think it was traded with Goldman. This document
12 suggests that.

13 Q And does this relate to --

14 MR. TRACEY: John, can you keep the replacement
15 trades up on 2108?

16 (Pause)

17 BY MR. TRACEY:

18 Q So, Mr. Cen, I wonder if you can tell me what the
19 relationship is between the document that -- the first page of
20 Claimant's Exhibit 2142 and any of the trades on the
21 spreadsheet, if any.

22 A Yeah. This seems to be a 10 million trade under name of
23 CIT correspond to the top of a CIT. I think that's just one of
24 the trades that we tried to replace the total amount, which is
25 45 million. This is a 10 million trade with Goldman.

1 Q Okay. And could you look at the Exhibit 2142 and identify
2 any other documents in there that relate to replacement trades
3 for that CIT position?

4 MR. ANDREOLI: Objection, Your Honor.

5 THE COURT: Yes?

6 MR. ANDREOLI: Foundation. The other (indiscernible)
7 and the compilation.

8 THE COURT: I'm sorry.

9 MR. ANDREOLI: Sorry.

10 THE COURT: Because it's in the "Lehman Positions -
11 Master"?

12 MR. ANDREOLI: No, no.

13 THE COURT: I --

14 MR. ANDREOLI: In the compilation exhibit which is
15 2142. So, for example, the second page. I don't see Mr. Cen's
16 name anywhere. Third page, same issue. Fifth page, same
17 issue.

18 MR. TRACEY: Okay. Well, Your Honor, I'll lay a
19 foundation as we go about it.

20 THE COURT: Okay.

21 MR. TRACEY: If he can identify them then --

22 THE COURT: All right.

23 MR. TRACEY: -- we'll go into the next one.

24 THE COURT: Thank you.

25 BY MR. TRACEY:

1 Q So, Mr. Cen, I'd like you to identify which documents, if
2 any, relate to replacing that CIT position and please confine
3 your identification of exhibits to exhibits you actually have
4 seen before and can recognize.

5 A I think 1320 -- this is the -- this is the e-mail
6 forwarded by Benny. He's basically reporting the trade. So if
7 I do some trade and a confirmation comes back from brokers,
8 they'll -- someone they will directly e-mail him and so he will
9 just forward to the -- thing. So that's one of the CIT trades
10 here.

11 Q And if I could just ask one follow-up question on that.
12 Do you recall that document, CX1320, from -- as a trade that
13 you did -- as a document of the trade you did between September
14 15th and October 15th?

15 THE COURT: Okay. Hold on just a second. Mr.
16 Andreoli?

17 MR. ANDREOLI: I mean, it's the same objection. But
18 I don't know if he can cure it in the answer.

19 THE COURT: Well --

20 MR. TRACEY: Well, I'm trying to get to the
21 foundation.

22 THE COURT: Well, he's trying -- he's --

23 MR. ANDREOLI: Okay.

24 THE COURT: Yeah. I mean, I think he's just taking
25 it one step at a time.

1 BY MR. TRACEY:

2 Q So let me rephrase the question, Mr. Cen.

3 A Uh-huh. So basically, if you look at the Exhibit 1320,
4 it's -- it's captured the same 10 million trade -- that I
5 initially forwarded on the Bloomberg 10 million trade.

6 Q Okay.

7 A And the bottom part is just the same information that --

8 Q Okay. And just for clarification, Mr. Cen, do you
9 recognize Claimant's Exhibit 1320? Can you identify that
10 document?

11 A Yeah.

12 Q Okay.

13 THE COURT: So let me -- if you don't mind.

14 MR. TRACEY: Please.

15 THE COURT: So, Mr. Cen, if you look at the document
16 1320 --

17 THE WITNESS: 1320 --

18 THE COURT: Right. 1320, the one that you've been
19 looking at, right --

20 THE WITNESS: Yes.

21 THE COURT: -- which you've just identified as being
22 linked to 1319, right, or reflecting the same trade?

23 THE WITNESS: Yes.

24 THE COURT: Right? So your name doesn't appear in
25 the Chu block either at the top from Benny Chan (ph) or at the

1 bottom from Barry Chang (ph). So I guess the question is how
2 would you have come to see that e-mail or to get it to forward
3 it on as you did in 1319 where you sent it to an e-mail address
4 called "Trades"?

5 THE WITNESS: So --

6 THE COURT: Do you understand my question?

7 THE WITNESS: So the e-mail that -- that Benny Chan
8 forwarded, it basically captured the Bloomberg trade
9 (indiscernible) at the bottom.

10 THE COURT: Okay. Who is Benny Chan?

11 THE WITNESS: Benny Chan is a trader -- at the time,
12 he is working with me at QVT. He's -- he usually reports
13 trades and book trades.

14 THE COURT: Okay. So how did it get -- so are you a
15 blind copied on the Benny Chan e-mail?

16 THE WITNESS: Not necessarily I will get the e-mail
17 but I recognize the Bloomberg portion of the trades. That's
18 usually when I --

19 THE COURT: Okay.

20 THE WITNESS: When I did trade with the counterparty,
21 I will have it.

22 MR. TRACEY: And -- can I follow up?

23 THE COURT: Sure. Go ahead.

24 BY MR. TRACEY:

25 Q And do you recognize that Bloomberg from seeing it back in

1 September of 2008?

2 A Yeah. I mean, I don't -- I cannot say exactly every
3 single line but I recognize this is the Bloomberg trades I was
4 doing with -- and Joel.

5 Q Okay. And just one follow-up question.

6 A Okay.

7 Q In the ordinary course, if you received a confirmation by
8 Bloomberg from Barry Chang -- if QVT received the Bloomberg
9 confirmation from Barry Chang, in the ordinary course of
10 business, if it was your trade, would you normally receive a
11 copy of it?

12 A I may not get a copy if -- usually a broker will send me a
13 Bloomberg trade and I will recognize them. But the
14 confirmation could send to one of our -- through e-mail send to
15 one of our traders and he will book the trades.

16 Q Okay.

17 A According -- but he will also recognize -- reconcile the
18 confirmation with my e-mail I sent early.

19 Q Okay. Is that --

20 MR. TRACEY: Is that sufficient?

21 MR. ANDREOLI: I mean, I think there's still been no
22 foundation laid to say that he actually saw this document.

23 MR. TRACEY: Okay. Well, we'll --

24 THE COURT: He --

25 MR. TRACEY: Go ahead. Sorry, Your Honor.

1 THE COURT: The witness has testified that he recalls
2 having seen it. So that's the testimony.

3 BY MR. TRACEY:

4 Q Okay. Let's turn to Claimant's Exhibit 1323. Can you
5 identify that document? And again, only if you can actually
6 identify the document itself.

7 A Yes. Those -- I think the bottom part is --

8 MR. ANDREOLI: Objection, Your Honor. Can we get the
9 spreadsheet taken off the monitor while he's looking at the
10 document? I mean, to the extent it's refreshing his
11 recollection, that's something else. That seems --

12 MR. TRACEY: I'm not sure why this is (indiscernible)
13 but --

14 THE COURT: Okay. I think that --

15 (Pause)

16 THE COURT: Unless it's distracting Mr. Cen, we're
17 going to leave the spreadsheet up there.

18 THE WITNESS: I'm not looking at the spreadsheet.
19 I'm looking at the binder.

20 THE COURT: Go ahead, sir.

21 THE WITNESS: So, yes. I can recognize. This is
22 type of a trade I'll do and this is a confirmation that was
23 sent back. This is -- was DB five million.

24 BY MR. TRACEY:

25 Q And how does that relate to any of the trades that are on

1 the spreadsheet?

2 A This is -- this is all -- same part of trade tried to
3 replace the big position that we had, CIT. And -- 'cause we
4 cannot get it done. Nobody would trade you maybe even 20
5 million. So the 10 million was probably was the largest you
6 can trade that day. And so we have to break up, call all the
7 brokers.

8 Q Okay.

9 A So this is five million.

10 Q Now turning to Claimant's Exhibit 1324, can you
11 identify --

12 THE COURT: Mr. Tracey, why don't --

13 MR. TRACEY: Sorry.

14 THE COURT: Let's just pause for a moment. And come
15 on up.

16 (Sidebar conference off the record)

17 THE COURT: Do you want to come back up? Okay.

18 BY MR. TRACEY:

19 Q So based on --

20 THE COURT: We had a little meet and confer in the
21 hope of coming up with some more efficient of going through
22 what you've been doing for the last 15 minutes or so, Mr.
23 Tracey.

24 MR. TRACEY: And I apologize for being inefficient.
25 But --

1 THE COURT: No.

2 MR. TRACEY: -- we've now agreed in an off-the-record
3 conversation that there's no dispute between the parties that
4 the replacement trades that this witness did are not disputed
5 as having occurred.

6 THE COURT: As having occurred and as reflected in
7 the documents that you've been going through.

8 MR. TRACEY: Correct, Your Honor.

9 THE COURT: Okay. Excellent. That was not a
10 criticism of either side, just an ongoing effort on my part to
11 move things along whenever I see an opportunity.

12 MR. TRACEY: Thank you, Your Honor.

13 BY MR. TRACEY:

14 Q Now, Mr. Cen, I'd like to --

15 MR. TRACEY: John, if you can just bring up the
16 spreadsheet. And if you could unfilter it for replacement
17 trades and filter it for trades that are identified as "List".

18 BY MR. TRACEY:

19 Q Mr. Cen, if you can recall from September/October 2008,
20 what was the approach that you took to valuing positions that
21 are designated as "List"?

22 A I think, if I recall, the "List" is that we get -- we get
23 quotations back from various dealers and brokers. And so, I
24 was given that list of the quotes and I used that quotes as a
25 spread and calculate using the (indiscernible) calculating

1 THE REPORTER: Can you (indiscernible)?

2 THE WITNESS: So once you get a spread back, it's
3 like a market. And you use that spread. You can calculate the
4 dollar amount of the value the trade (indiscernible). And
5 using that dollar amount of value in the notional and then you
6 can calculate the amount of value associated with that trade
7 and you can basically calculate the loss versus what collateral
8 we have versus the trade -- the Lehman.

9 BY MR. TRACEY:

10 Q Thank you.

11 MR. TRACEY: Let's refilter and move to the positions
12 that are identified as MarkIT.

13 (Pause)

14 MR. TRACEY: And again, we're filtering in column BP
15 on the "Lehman Positions - Master" sheet.

16 (Pause)

17 BY MR. TRACEY:

18 Q Mr. Cen, with respect to those positions that are
19 identified as having been marked according to MarkIT Partners,
20 can you explain to the Court what approach you used to valuing
21 those positions?

22 A Sure. Markit Partner have aggregate -- there's dealers
23 quotes submitted every day. So we use Markit Partner quotes.
24 And because Markit Partners probably usually only give you the
25 mid-market, so we assign a bid/ask spread. And here, on

1 average, we do something like 10 percent bid to mid spread.
2 And we calculate it based on the Markit Partner, same way that
3 we calculate from the quotation marks. We use a spread and use
4 a (indiscernible) wherever calculate in CDS dollar value.

5 Q Okay.

6 MR. TRACEY: Could you scroll over to column Y, John?

7 (Pause)

8 MR. TRACEY: Okay. Thank you. Could you scroll
9 down?

10 BY MR. TRACEY:

11 Q Mr. Cen, I'd like you to look at column Y and the dates
12 that are in there.

13 MR. TRACEY: Thank you.

14 BY MR. TRACEY:

15 Q Do those represent the dates of Markit Partners
16 information that you used to value these positions?

17 A Yeah. So I think that's a reasonable dates we use, yeah.

18 Q But do you -- the question is -- let me ask it
19 differently. What do the dates in that column represent?

20 A That dates correspond the Markit Partner quotation for
21 that day.

22 Q Okay.

23 A Yeah.

24 Q And can you explain to the Court why you used in some
25 cases September 16 and in some cases September 17?

1 A I think it would -- yes. Sepetmeber 15 is the date that
2 it's totally chaotic a market. We couldn't even get any trades
3 done and would have a few trades done but -- so I think that we
4 don't really think that September 15 had any realistic
5 quotation for a Market Partner because all the data was so
6 chaotic. So that's why we resolved to -- 16 is the starting
7 date to look at the quotations.

8 Q And in those cases where you used September 17, do you
9 recall what you did that, in general terms?

10 A Well, I don't recall any exactly why any trade -- exactly
11 why we use the 17th, but in general, is because the 16th does
12 not have credible -- if I would think it would have credible
13 marks, that's why I would resolve to the 17th. But I don't
14 recall specific ones.

15 THE COURT: Yes, Mr. Andreoli.

16 MR. ANDREOLI: Objection and motion to strike. He
17 testified that he doesn't have a specific recollection about
18 specific trades.

19 MR. TRACEY: I think the testimony was he remembered
20 a general principle but nothing specific about an individual --

21 THE COURT: Yes. All right. I'm going to let the
22 testimony stand.

23 Can I ask my question, though?

24 MR. TRACEY: Sure.

25 THE COURT: You indicated, Mr. Cen that, as a general

1 matter, you would have gone to September 17th rather than
2 September 16th if you had believed that the marks or that the
3 data from Markit Partners on the 16th -- September 16th --
4 wasn't credible. What is it about the data that you would have
5 seen for 9/16 that would have made you believe it was not
6 credible? What characteristics of the data?

7 THE WITNESS: Umm --

8 THE COURT: If you recall. If you don't then it's
9 okay.

10 THE WITNESS: I can't specifically say anything --

11 THE COURT: Okay.

12 THE WITNESS: -- definitively. But --

13 THE COURT: Okay.

14 THE WITNESS: -- that's usually -- I mean, if you
15 look at -- I think probably majority is in September 16. If --
16 we would always try to use September 16.

17 THE COURT: Okay. Thank you.

18 MR. TRACEY: And, John, if we could -- oh, let me --

19 BY MR. TRACEY:

20 Q Before we go off this -- could you look, Mr. Cen, at
21 column W? Are those the bid-mid adjustments that you made,
22 that you referred to earlier?

23 A At column W?

24 Q W, yes.

25 A Yes.

1 Q Okay. And again, only confining yourself to what you
2 recall from September of 2008, do you recall why you used the
3 three, five and ten percent bid-mid spreads?

4 A I think by default, we all kind of agree ten percent is a
5 market condition we're going to use for the bid to mid because
6 the market is not very liquid for those names in general, but
7 also in the specific time period. So there are a few -- there
8 are few which resolve tighter at five percent is because these
9 are very liquid investment great name type of trades and they
10 appear quite often and you see a lot of them also daily.

11 There's -- yeah. There's even tighter ones, three
12 percent. I think these are probably more relate to a very
13 liquid utilities, rails, those type of names.

14 Q Thank you.

15 MR. TRACEY: Now if we could go on to -- go back to
16 BP and unfilter for "Markit Partners". And if you could filter
17 for "broker run"?

18 BY MR. TRACEY:

19 Q So, Mr. Cen, I've filtered the spreadsheet for just those
20 that refer to broker run. Do you recall what approach you used
21 to position a spread to identify it as a broker run?

22 A So I think, if I recall, broker runs is the one that we
23 ask a broker for the quotes or the market. And if we find it,
24 we will use that to -- for our calculation.

25 Q Let me direct your attention to Claimant's Exhibit 2143,

1 please. That's in the book.

2 A 21 --

3 Q 43.

4 A -- 43. Okay.

5 (Pause)

6 Q And again, limiting yourself to documents you actually can
7 identify from QVT's books and records, if you can identify
8 those documents, please do so.

9 A So 2143 -- this seems to be a Bloomberg message that I
10 sent it to the central deposit that I got a quote for the Ford
11 Motor Co. Ford Motor Co. spread is 15 points up front plus 500
12 running for five million.

13 THE REPORTER: (Indiscernible).

14 THE WITNESS: Oh, okay.

15 So most of information is captured on the subject
16 line that forward. So it's the CDS for the Ford Motor Co. And
17 it's 15 points up front plus 500 running. And the five million
18 is the size in five-year CDS. So this will be a quote that I
19 will use to calculate.

20 And if you look at -- the original message was sent
21 from Barclay on the September 15. So when I calculate it,
22 probably that was the September 21st and I searched through my
23 own Bloomberg and this is the quotes I used.

24 BY MR. TRACEY:

25 Q Okay. Can you turn to the second page of that exhibit

1 which is labeled Claimant's Exhibit CX1559? Can you identify
2 that document?

3 A Yeah. This will be a run for the Sprint and Nextel bond
4 and the CDS. So the CDS five years, 345/355, for example.
5 That would be the quotes there.

6 Q And I note that there's no date, at least that I can see,
7 on the quote from Edward Bayliss (ph). Do you know what date
8 that quote was received?

9 A No. I don't know what exact date. But obviously, it has
10 to be before the September 21st and -- because as the previous
11 exhibition (sic), 21st the one I -- the date I do calculation.
12 I will go to my Bloomberg and search any message and find that
13 Bloomberg -- this type of quote message I forward. But I don't
14 know why Bloomberg don't have a date. Some has a date, some
15 does not have a date.

16 Q Okay. And turning to the third page, Claimant's Exhibit
17 1613, can you identify that document?

18 A Yes. These are usually the IG run we receive from the
19 brokers. And this is the screen capture from Goldman that I
20 trade with a lot.

21 MR. TRACEY: Okay. And finally, I'd like to filter
22 it again on "Calculations".

23 (Pause)

24 BY MR. TRACEY:

25 Q Mr. Cen, do you recall what approach you took for those

1 positions that you identified as "Calculation"?

2 A I think, in general, if we have a CDS quotes, we use a CDS
3 quote which -- and then you use a formula to calculate that all
4 value. If we don't have a CDS quotes, I think we will try to
5 resolve that through looking at reference bond price. And some
6 of these looks like using that bond price quotes to calculate
7 the CDS.

8 Q And would you please look at Claimant's Exhibit 2144 which
9 is in your book? And let's focus on the first one, first page,
10 which is Claimant's Exhibit 1572. Can you identify that
11 document?

12 A Yes. That's -- that's a quotes for the reference bond
13 (indiscernible) subordinated bond 2011. And quotes as of 13,
14 15. That's the quote.

15 Q And again, I don't see a date on that. Do you know the
16 date that you --

17 A I don't recall the date. The original message -- again --
18 but has to be before the September 28th, I think.

19 Q Okay. And the next document is Claimant's Exhibit 1971.
20 Can you identify that document?

21 A Yeah. Looks like this is the one that -- the CDS
22 confirmation.

23 Q And did you use this in connection with your valuations?

24 A In this -- I think in this document, it points to the
25 strike price, a reference price, because this, I think, is

1 reference to -- for the recovery swap. Basically, you're
2 betting on what's the ultimate recovery rate. So this document
3 indicating the trade was struck at a 48 percent recovery. It's
4 the reference price.

5 Q And did you use that price in connection with any of the
6 calculations on the spreadsheet?

7 A Yes. If we get a quotes for the recovery swap, recovery
8 swap indication price, then we calculate based on the
9 difference of the -- our strike and the recovery -- market
10 recovery.

11 Q Mr. Cen, did you have a trade facing Lehman as of
12 September 15th, 2008 involving CDS as a reference obligation?

13 A Reference obligation --

14 Q A reference entity. Do you recall a CDS?

15 A CVS.

16 Q CVS.

17 A Oh, okay. Yeah, yeah, yeah, yeah.

18 Q Do you recall that?

19 A Yeah.

20 Q And did you value that -- what was that position?

21 A So I think a CVS was one -- arbitrage position, a curve
22 arbitrage -- basically, you think that long-term, the CVS
23 creditor will not be great but short-term, they can manage. So
24 then you would take that by a long-term protection and using
25 the short-term protection as a source of fund to pay the

1 premium.

2 Q Okay.

3 A So it's basically two leg of a trade.

4 Q And do you recall what the underlying reference obligation
5 was for that CVS position?

6 A On the CVS positions, I don't -- I think CVS -- and I
7 don't know exactly. If I have to look at it --

8 Q Oh, sure.

9 A But --

10 MR. TRACEY: Why don't we blow it up? Can you bring
11 up 2108?

12 (Pause)

13 MR. TRACEY: Okay. Would you search for CVS?

14 (Pause)

15 MR. TRACEY: Keep going down. Now could you search
16 for other CVSSs?

17 (Pause)

18 MR. TRACEY: Just take all the filters off. Thank
19 you.

20 (Pause)

21 MR. TRACEY: Okay. Thank you.

22 BY MR. TRACEY:

23 Q So we've filtered for CVS. Are any of those the positions
24 that you referred to?

25 A Yes. So this -- you can see we are selling our

1 short-dated which is --

2 Q Could you identify -- would you just identify the row that
3 you're talking about?

4 A Oh. 234 to 237.

5 Q Okay.

6 A So you have to look at two at the time because one is a
7 QVT, one is a Quintessence. So the top two represent a lease.
8 We are selling the CVS for short-dated, June of 2012, eight
9 million, eight and a half million. And then the same notional
10 were long, 2017, June, of a CVS credit.

11 THE REPORTER: (Indiscernible).

12 THE WITNESS: June of 2017.

13 BY MR. TRACEY:

14 Q And with respect to the CVS positions, did they reference
15 a preferred security or a debt security? Do you know?

16 A I don't remember that.

17 Q Okay.

18 MR. TRACEY: I have nothing further.

19 THE COURT: All right. Thank you.

20 Mr. Andreoli, should we take a brief break before you
21 start your cross-examination?

22 MR. ANDREOLI: That'll be great, Your Honor.

23 THE COURT: All right? Okay. Let's resume at 11:15.

24 Mr. Cen, you remain under oath during the break.

25 Please don't discuss the case or your testimony with anyone or

1 be in anyone's presence while they're doing the same. All
2 right?

3 THE WITNESS: Okay. But I can go back to the seat or
4 I should --

5 THE COURT: No. You're -- you can take a little
6 break now and then you're going to come back and Mr. Andreoli
7 is going to do his cross-examination.

8 THE WITNESS: Okay.

9 THE COURT: All right? Thank you.

10 (Recess from 11:06 a.m. until 11:21 p.m.)

11 THE COURT: Yes. Are you going to be just working
12 out of your binder?

13 MR. ANDREOLI: I think so, Your Honor.

14 THE COURT: Okay.

15 Please come back, Mr. Cen. Yes.

16 Ready when you are.

17 MR. ANDREOLI: Okay.

18 CROSS-EXAMINATION

19 BY MR. ANDREOLI:

20 Q Good morning, Mr. Cen.

21 A Good morning.

22 Q So let's start I think where you left off with Mr. Tracey.
23 And you were discussing CVS entrees. Do you recall that
24 testimony?

25 A CVS?

1 Q Right. Do you recall talking about that with Mr. Tracey?

2 THE COURT: CVS.

3 THE WITNESS: CVS.

4 THE COURT: V as in victory.

5 THE WITNESS: Yeah. Yeah.

6 BY MR. ANDREOLI:

7 Q Okay. Okay. If you could flip to tab 5972 in your
8 binder. It's in the black binder. Sorry.

9 A Oh. It's a different binder. Okay. What's the tab
10 number?

11 Q 5972.

12 A Yep.

13 Q Let me know when you're ready.

14 A Yeah.

15 Q You ready?

16 A Do you want me to read this one first?

17 Q Yes.

18 A Okay.

19 Q Yes, I do. Go ahead.

20 (Pause)

21 A Okay. Yeah.

22 Q Okay. So I think when Mr. Tracey asked you about the CVS
23 trades, you couldn't recall what the underlying obligations
24 were, is that right?

25 A Yeah. From now -- but now I look at this and --

1 Q Okay. So does this document, Exhibit 5972, refresh your
2 recollection that one of the CVS trades was a PCDS trade?

3 A Yeah.

4 Q Okay. And what is a PCDS trade?

5 A PCDS trade is a CVS that reference to a preferred -- a
6 preferred bond (indiscernible).

7 Q As opposed to a senior debt like a regular CDS.

8 A Right. Preferred, yes.

9 Q All right. And --

10 MR. ANDREOLI: Let's bring up --

11 MR. TAMBE: Just one thing on the record, I think.

12 THE COURT: Yes.

13 MR. TAMBE: It says PCDS trade is a CDS. I think he
14 said is a CVS.

15 MR. ANDREOLI: Right. Okay.

16 THE COURT: Okay. I'm lost.

17 MR. TAMBE: The witness had said CDS which came up in
18 the transcript as CVS. I didn't want that lost as we went on.

19 THE COURT: Okay.

20 MR. TAMBE: Thank you, Your Honor.

21 THE COURT: Uh-huh.

22 BY MR. ANDREOLI:

23 Q Okay.

24 MR. ANDREOLI: And let's go to 2108, Randall.

25 THE COURT: If we have any more external noise, I'm

1 going to just quit.

2 BY MR. ANDREOLI:

3 Q Okay. Mr. Cen, this is the document you were looking at
4 earlier with Mr. Tracey, right?

5 Sorry. You have to answer --

6 MR. ANDREOLI: Should I close the window, Your Honor?

7 THE COURT: Well, just pause for a moment.

8 Are the windows as closed as you can get them?

9 MR. TAMBE: Without actually like pulling them in,
10 yes. I think you said yesterday we shouldn't do that?

11 BY MR. ANDREOLI:

12 Q So, Mr. Cen, this is the spreadsheet you were looking at
13 earlier with Mr. Tracey, correct?

14 A Yes.

15 Q Okay.

16 MR. ANDREOLI: And, Randall, if you could filter on
17 column B for CVS. Okay.

18 BY MR. ANDREOLI:

19 Q So these are the four trades that you were discussing
20 earlier with Mr. Tracey, right?

21 A Yes.

22 Q Okay.

23 MR. ANDREOLI: If we could scroll out to column BP.

24 BY MR. ANDREOLI:

25 Q Okay. So column BP, Mr. Cen, it says "List". And does

1 that mean that you valued these trades using the responses QVT
2 received in its market quotation process?

3 A Yes.

4 Q Okay. And when QVT sent its market quotation request to
5 dealers, do you know if QVT notified the dealers that the PCDS
6 trade was, in fact, a PCDS trade?

7 A I'm not sure. There looks like the booking the name of a
8 CVS trade only indicating is a regular CDS. So I'm not sure
9 anybody send out -- specify anything (indiscernible). It's
10 very rare -- PCDS is very rare.

11 MR. ANDREOLI: Randall, if you could scroll down on
12 the tabs. If you could show Mr. Cen the "Corporate List" tab,
13 please.

14 BY MR. ANDREOLI:

15 Q And, Mr. Cen, is this the list as you understood it that
16 went out to dealers in connection with the market quotation
17 process for the single-name CDS trades facing Lehman?

18 A To me, yeah, that looks like one. The -- so I think when
19 I recognize it when I use the quotation pack to calculate using
20 the sheet, yes.

21 THE REPORTER: (Indiscernible).

22 THE WITNESS: To calculate the value of the CDS.

23 MR. ANDREOLI: Okay. Randall, could you filter on
24 column A? Well, actually, sorry.

25 BY MR. ANDREOLI:

1 Q Before we do that, Mr. Cen, if we scroll down and if you
2 could look at the "Notes" column, column F. And then just go
3 down.

4 So, Mr. Cen, you see in some cells, it says LCDS in column
5 F? Do you see that?

6 A Where? Yeah. Those are long CDS.

7 Q Right.

8 MR. ANDREOLI: And then if you keep scrolling down,
9 Randall --

10 BY MR. ANDREOLI:

11 Q -- see some say PCDS?

12 A Right.

13 Q Okay.

14 MR. ANDREOLI: So now, Randall, could we filter on
15 column A, please, for CVS?

16 BY MR. ANDREOLI:

17 Q Okay. You see, it doesn't reference PCDS in column F for
18 the CVS trades, right?

19 A Yeah. I saw that.

20 Q Okay. And so, is your understand that when the market
21 quotation request was sent out to dealers, the CVS was not
22 specified as a PCDS?

23 A It doesn't look like specify as a PCDS. Call it a
24 mistake.

25 Q Okay. And the PCDS trade here is the one that's specified

1 in row C, right -- I'm sorry -- row 3. Sorry.

2 A Hmm?

3 Q Row 3 is the PCDS trade?

4 A Yes.

5 Q Okay.

6 A Short-dated one, yes.

7 Q And that's the one you used a quote of 30 from JTM to
8 value, right?

9 A That looks like, yeah.

10 Q And so that's not an accurate quote for PCDS, right?

11 A Probably not, I would think.

12 Q So, Mr. Cen, you mentioned that PCDS was very rare. Do
13 you recall having any conversations with anyone else at QVT
14 about PCDS in the 2008 time frame?

15 A Within ourselves, among ourselves?

16 Q Yes.

17 A Probably yeah. Yeah.

18 Q Do you recall letting anyone know that you had a PCDS
19 trade with Lehman?

20 A I'm not sure I talked -- I specifically talked to anybody
21 but it could be. I don't know.

22 Q Do you recall any of your partners having PCDS trades with
23 Lehman?

24 A That I probably aware of, yeah.

25 Q So you did know that some of your partners had PCDS

1 trades?

2 A Yeah.

3 Q Which partners?

4 A I would think Arthur Chu is the most likely one if I can
5 remember.

6 Q But you're not sure.

7 A Well, I'm not sure exactly but I know PCDS is the only
8 probably between him and me trades with Lehman.

9 Q Okay. So I think earlier with Mr. Tracey, you were
10 talking about your role in connection with the valuation
11 process. Right? Okay. So your role --

12 A Yes.

13 Q -- consisted of filling out your version of the
14 spreadsheet and then providing it back to Mr. Wollman, is that
15 right?

16 A Yes.

17 Q Okay. And the spreadsheet you were looking at earlier,
18 2108, it has the master list, you didn't edit that master list,
19 did you?

20 A No.

21 Q That's something Mr. Wollman was in control of?

22 A He aggregate --

23 Q Right. And you weren't responsible for verifying any of
24 the other traders' valuations, were you?

25 A The other packs?

1 Q Right.

2 A No.

3 Q And you weren't involved in any revisions that QVT
4 submitted to its calculation statement, were you?

5 A I don't remember.

6 Q You weren't involved in the process of sending the lists
7 that we just looked at a few minutes ago out to dealers, were
8 you?

9 A I wasn't the one sending out the list but I called the
10 dealers, let them know that the list will be sent to them from
11 QVT.

12 Q Okay. Which dealers did you call?

13 A I mean, I usually call all the dealers that I usually
14 trade with.

15 Q Okay.

16 A I cannot recall exactly who the --

17 Q Okay. That's something that we'd like to be clear about.
18 So do you have a recollection on specific dealers in connection
19 with this process?

20 A I don't have a recollection specific to dealer but I
21 usually call them to let them know that we'll send a list to
22 them.

23 Q So you're talking about other (indiscernible) that QVT
24 sent out prior to this, is that right?

25 A I think in general practice, if we sent out any thing,

1 solicited a quote, in order to have the dealer respond, I will
2 call them to let them know.

3 Q Okay. But just specifically, with respect to this one,
4 you don't remember calling particular dealers.

5 A I don't remember.

6 Q Okay.

7 A And you weren't involved in drafting the language that
8 went into the requested dealers?

9 A No.

10 Q You were not involved in seeking legal advice as to the
11 market quotation process, were you?

12 A No.

13 Q And you didn't have any conversations with Mr. Brumm about
14 legal advice that QVT obtained about the market quotation
15 process?

16 A No.

17 (Pause)

18 Q Okay. So you were provided a first draft of the
19 spreadsheet, like a template, then you fill in, right, with
20 your valuations?

21 A Yeah.

22 Q And when you received the template, it already had certain
23 information filled in, right?

24 A Yeah. The quotations.

25 Q Okay. So it had certain quotations from the dealers

1 already filled in? Is that what you mean?

2 A Yes. I cannot recall exactly, you know, what you're
3 asking for that.

4 Q Okay. Do you recall how Mr. Wollman provided you with the
5 template?

6 A How?

7 Q Like did he send it to you by e-mail or did he direct you
8 to a place on QVT shared drive?

9 A I don't remember.

10 Q Can I direct you to tab JX0086 in the binder? And if you
11 can take a moment to read the first e-mail in the chain from
12 Mr. Wollman and let me know when you're ready.

13 A 86, right? 86?

14 Q Yes, correct. It should look like the one on your screen.
15 (Pause)

16 A I -- okay.

17 Q Okay. So the bottom e-mail or the first e-mail on this
18 chain is an e-mail Mr. Wollman sent to you on Saturday,
19 September 27th at 5:27 p.m. You see that?

20 A Okay.

21 Q And in the e-mail, Mr. Wollman directs you to two files on
22 QVT drive, correct?

23 A Yes.

24 Q In the first file, he mentions is a Lehman claim/new.xls,
25 correct?

1 A Yes.

2 Q In the second file, he directs you to is called Marking
3 Responsibility.xls, right?

4 A Yes.

5 Q Okay. And in the paragraph where he describes the marking
6 responsibility file, he notes that he had assigned each CDS to
7 someone but that there were some unknown positions that had not
8 yet been assigned, right?

9 A Yes. That appear on the e-mail.

10 Q Okay.

11 MR. ANDREOLI: Randall, can we open Exhibit 5214?

12 BY MR. ANDREOLI:

13 Q Okay. Mr. Cen, this is another spreadsheet that Randall's
14 going to bring up on the screen. You can look in the binder if
15 you want to see the metadata on the document.

16 A Okay.

17 Q And if you can just go to your first copy binder for a
18 second, Mr. Cen, tab 5214.

19 (Pause)

20 A Okay.

21 Q Okay. And if you flip over the first page, you'll see a
22 page of metadata.

23 A This one, right?

24 Q Yes. Okay.

25 A Uh-huh.

1 Q So you see in the third box, there's file information. Do
2 you see that? And the file name for this file is "Marking
3 Responsibility.xls?"

4 A Yes.

5 Q And that's the same file name you just saw in the e-mail
6 that Mr. Wollman sent you?

7 A Okay.

8 Q And if you look at the screen now, which is the native
9 Excel, do you recognize this as the marking responsibility
10 spreadsheet that Mr. Wollman sent you on September 27th of
11 2008? And if you need to look anywhere on the spreadsheet,
12 just let us know and we'll move the spreadsheet for you.

13 A Well, I -- I don't remember specifically but this is the
14 spreadsheet that you open, right?

15 Q Yes.

16 A Okay.

17 Q So do you recall receiving a spreadsheet from Mr. Wollman
18 in that time period letting you know which trades you were
19 responsible for valuing?

20 A Well, I said I don't remember was attachment or was point
21 to the specific area.

22 Q Right. So a slightly different question. But do you
23 remember receiving a spreadsheet from Mr. Wollman to let you
24 know which trades you were supposed to value?

25 A Well, I receive a template, yes. But I don't know --

1 template spreadsheet for me to value.

2 Q Okay.

3 THE COURT: The question, Mr. Cen, is how did you
4 come to know which trades you were being expected to handle in
5 connection with the valuation process.

6 THE WITNESS: Yes. I received the template from Joel
7 Wollman which ask me to value these trades.

8 THE COURT: Okay.

9 BY MR. ANDREOLI:

10 Q And --

11 THE COURT: So they're two different things.

12 THE WITNESS: Okay.

13 THE COURT: There's a template, right, and the trades
14 that you were going to populate into the template, right?

15 THE WITNESS: Well --

16 THE COURT: How did you know which trades you were
17 personally responsible for? Which positions? I'm sorry.

18 THE WITNESS: Well, he -- well, first of all, Joel
19 Wollman sent me a template which include the positions I have.
20 But also, I know what my positions are which by the account, I
21 know which account is my account.

22 BY MR. ANDREOLI:

23 Q Okay. Maybe we can do it a slightly different way. So if
24 you go back to Joint Exhibit 86, Mr. Cen, in your binder. So
25 as I mentioned, there are two files that Mr. Wollman

1 referenced. The other one is Lehman Claim-new.xls, right?

2 A Uh-huh.

3 Q Okay.

4 MR. ANDREOLI: So let's open, Randall, 5971.

5 BY MR. ANDREOLI:

6 Q So, Mr. Cen, while that's being brought up, the
7 spreadsheet's being brought up on the screen. You want to flip
8 in your binder to tab 5971 and you can see the file name.

9 A Yes.

10 Q If you look in your binder, Mr. Cen, in the same area,
11 where it says "File Information", this file name is Lehman
12 Claim-new.xls, right?

13 A Okay.

14 Q And that's the same file name that Mr. Wollman was
15 pointing you to on September 27, 2008, right?

16 A Okay.

17 Q Correct. So is this document the template that Mr.
18 Wollman directed you to to perform your valuations? And if you
19 need to look around, please let us know and we'll scroll around
20 for you.

21 A Well, can you scroll to the right?

22 (Pause)

23 A So this specific one, some of these trades are not my
24 responsibility.

25 Q Right. But you were provided with a template that had

1 more than just your trades.

2 A Similar to this, yeah. Yeah. I would say, yes.

3 MR. ANDREOLI: And if you -- Randall, while you're
4 there --

5 THE WITNESS: 'Cause you have a responsible -- maybe
6 it's a different person here.

7 BY MR. ANDREOLI:

8 Q Right.

9 MR. ANDREOLI: Can you drop down that -- yeah. Can
10 you filter on Mr. Cen's initials, please?

11 BY MR. ANDREOLI:

12 Q Okay. Now that we filtered on your initials, does this
13 spreadsheet now look like the template that you were provided?

14 A Yeah. It looks like it, yes. Yeah.

15 Q Sorry. Let me make the record clear. We have to talk
16 alternating, okay? So let me finish.

17 So is this spreadsheet, now that we filtered your name, is
18 this the spreadsheet that you were provided the template to
19 fill out?

20 A It looks like one, yeah.

21 Q And if we flip back to Joint Exhibit 86. And sort of in
22 the middle of the "Marking Responsibility" paragraph, Mr.
23 Wollman notes: "Even though I assigned positions to everyone,
24 many of these may have MarkIT Partner marks. However, please
25 examine appropriateness of mark and bid/ask spread and decide

1 if an override is necessary."

2 Do you see that?

3 A Yes.

4 Q Okay. And so, after you received this e-mail from Mr.
5 Wollman, did you then engage in the analysis that he requested
6 looking at the appropriateness of the MarkIT Partner marks?

7 A I think I would but I don't remember specifically.

8 Q Well, you did it at some point in time, right?

9 A Yes.

10 Q And his suggestion that you do it suggests that you hadn't
11 done it yet, right?

12 A I don't know if it's suggesting to me or to some other
13 persons. But -- I don't understand the question.

14 A I'm just trying to place it in time. So he's directing
15 you and your partners to examining appropriateness of the marks
16 and the bid/ask spread, right?

17 A Yeah.

18 Q And so, you don't think you had done that work prior to
19 receiving this e-mail, do you?

20 A I don't remember. But I don't know if it's relevant. I
21 don't know this necessarily say we didn't do the bid/ask
22 estimate.

23 Q Okay. Do you have any recollection of doing the bid/ask
24 estimate before September 27th?

25 A I don't remember.

1 Q Okay. At the bottom of the e-mail, Mr. Wollman writes,
2 "Let me know if you have any questions/suggestions to help
3 tomorrow go as quickly as possible. (I'll be in by around 11
4 or so.)

5 And so, was Mr. -- well, you understood that to mean
6 that --

7 MR. ANDREOLI: Well, strike that.

8 BY MR. ANDREOLI:

9 Q Was there a meeting following the day on September 28th in
10 QVT's offices?

11 A See, that's a date I don't remember 'cause I don't
12 remember when we did the first valuation, was the 21st or 28th,
13 I don't remember. So that's why I don't remember this e-mail
14 was the first iteration or the second iteration.

15 Q Did you do anything to prepare for your testimony today,
16 Mr. Cen?

17 A What kind of preparation?

18 Q Did you review any documents?

19 A I review some documents that I was provided exhibit.

20 Q Okay. Did you see any documents that demonstrated that
21 you did valuation work before September 27th?

22 A I don't remember. 21st? I don't remember.

23 Q Did you review any other spreadsheets other than the one
24 Mr. Tracey showed you this morning, Exhibit 2108, the master
25 spreadsheet?

1 A No, I did not open any spreadsheets, no.

2 Q It was just that one, 2108, that you looked at in
3 preparation.

4 A In preparation, I was looking at that one.

5 Q Okay. Mr. Cen, why don't we take a look at Exhibit 5961?
6 And this is another spreadsheet. It's either the metadata
7 within the binder --

8 Okay. For 5961, Mr. Cen, you'll see that the file name is
9 Lehman Claim-Sen.xls, do you see that?

10 A Yes.

11 Q And if you look at the spreadsheet on the screen, is that
12 the spreadsheet in which you performed your valuations?

13 A It looks familiar, yeah.

14 Q Okay. And you'll see that the date modified in the
15 document says 9/28/2008 and the time modified says 15:42:30
16 which is 3:42. Is that --

17 A Where is the time -- where is the timeline?

18 Q So in the metadata.

19 A On the next page?

20 Q On the right-hand side, yes. On the right-hand side, it
21 has "Time Modified".

22 A "Time Modified" 15:42:30. Is that what you referenced
23 here?

24 Q Yes.

25 A Yeah, I saw that.

1 Q Okay. And is that consistent with your memory that you
2 completed your valuations at 3:42 on September 28th?

3 MR. TRACEY: I'm going to object. I'm not sure
4 there --

5 THE COURT: Yes.

6 MR. TRACEY: -- has been evidence --

7 MR. ANDREOLI: I --

8 THE COURT: There has not yet been that statement.

9 THE WITNESS: I cannot remember --

10 THE COURT: Hold on. (Indiscernible) one second. Do
11 you want to just look back over your notes?

12 MR. ANDREOLI: Sure, sure, sure. Yeah. Okay.

13 BY MR. ANDREOLI:

14 Q Sir, did you complete your valuation work on September
15 28th?

16 A So I cannot -- exact date I cannot remember all the when
17 is complete. I don't -- I don't remember the date exactly. I
18 remember it was a weekend and we were working on the
19 valuations.

20 Q Okay. Okay. Okay. Mr. Cen, Mr. Tracey directed your
21 attention before --

22 MR. ANDREOLI: And actually, I'm going to go 2108,
23 please.

24 BY MR. ANDREOLI:

25 Q Okay.

1 MR. ANDREOLI: If we could filter for Mr. Cen's
2 initials in column BC. And filter in column BP for "Broker" --
3 I'm sorry -- for "List". Okay.

4 BY MR. ANDREOLI:

5 Q And I think you mentioned that these are the trades that
6 you valued using responses QVT received to its market quotation
7 requests, is that right?

8 A Yeah.

9 Q Okay. These aren't all the trades that QVT received
10 market quotation responses on that you valued, right?

11 A I'm not sure the -- I'm not sure.

12 Q What does that mean?

13 A Whatever it is says.

14 Q Okay. Do you recall seeing market quotation responses
15 that you did not use in your valuations?

16 A I don't recall the specific but if I do, so I will
17 basically base it on the quotations not from credible dealers.
18 Either they don't usually trade or they don't provide a
19 credible marks. But I don't remember specifically I exclude
20 them.

21 Q Okay. Let's go to --

22 MR. ANDREOLI: Randall, if you could remove the
23 filtering on source. And could you remove the filtering on Mr.
24 Cen's initials to BC? And then can we filter in column B on
25 "VC"?

1 BY MR. ANDREOLI:

2 Q Okay. Mr. Cen, did you trade CDS on VC?

3 A Visteon? Yes.

4 Q Okay. And so, if you leave column BC up here, you see
5 that you were responsible for valuing some of these VC
6 positions and Mr. Wollman was responsible for valuing others,
7 is that right?

8 A I see all the -- basically, it was my name.

9 Q Right. Do you see in rows 6, 7, 174 and 175 Mr. Wollman's
10 initials in column BC?

11 A Oh, okay. But these are different accounts. These are
12 related different trades, yes. Five, ten track, yes.

13 Q Okay. And --

14 MR. ANDREOLI: Okay. Can we go to the corporate --

15 BY MR. ANDREOLI:

16 Q So Visteon was a single-name corporate CDS, is that right?

17 A Yes.

18 Q Okay.

19 A And if you notice that the account VC is for single-name
20 basically on trades.

21 Q Okay.

22 MR. ANDREOLI: And if we go to the --

23 BY MR. ANDREOLI:

24 Q So if you got quotes in response to your market quotation
25 request, it would be in the corporate list tab, is that right?

1 A I assume. I --

2 Q Okay.

3 MR. ANDREOLI: Let's go to the corporate list tab,
4 please.

5 THE WITNESS: The list, yeah. Okay.

6 MR. ANDREOLI: And if we -- Randall, if you could
7 filter in column A for VC. Okay.

8 BY MR. ANDREOLI:

9 Q So you see that you received market quotations on some of
10 these VC positions, right?

11 A Yeah, I see that.

12 Q Okay. But you didn't use them in your valuation, right?

13 A I don't remember.

14 Q Okay. You said that if you didn't use responses to the
15 market quotation process, you didn't think the dealer was
16 credible, right?

17 A I say in general, if I didn't use it, I find them not
18 credible so I didn't use them.

19 Q Okay. So --

20 A Very rare.

21 Q Okay. Are you saying that --

22 MR. ANDREOLI: So, Randall, can you scroll over to
23 the right? Okay.

24 BY MR. ANDREOLI:

25 Q So you see on row 48, there are two responses, one from

1 JPM and one from MS, right?

2 A Okay.

3 Q And more generally, there's several of these positions
4 have quotes from MS, which is Morgan Stanley, right?

5 A Yes. Morgan Stanley, yeah.

6 Q And Morgan Stanley was axed according to the note, right?

7 A Okay.

8 Q So you didn't believe that the axed quotes that you got
9 from Morgan Stanley were credible?

10 A I don't remember. I -- what did I do with the Visteon. I
11 don't even --

12 Q Okay.

13 A -- remember --

14 Q Let's go back. Let's go back.

15 A -- what did I use for the --

16 Q Let's go back --

17 A -- calculation.

18 Q -- to the "Lehman Positions - Master tab".

19 MR. ANDREOLI: "Lehman Positions - Master".

20 THE COURT: Can I interrupt for one second?

21 Mr. Cen, what does the word "axed" mean in this
22 context?

23 THE WITNESS: Axed means you can call them for a
24 trade.

25 THE COURT: Say that again, please.

1 BY MR. ANDREOLI:

2 Q It means they're interesting in trading, right?

3 A Axed means that you can call them and make a real trade.

4 THE COURT: Thank you.

5 MR. ANDREOLI: Okay. So let's scroll out to --
6 Randall, can we see column BP, please?

7 BY MR. ANDREOLI:

8 Q Okay. So for the trades that you valued, which are below
9 row 175, you used MarkIT, right?

10 (Pause)

11 A Yes.

12 Q And you'll see that Mr. Wollman used "List" to value the
13 trades that he valued, right?

14 A Yes. I saw this.

15 Q Okay.

16 A Yeah.

17 Q And some of the trades that Mr. Wollman valued have the
18 same maturity as the trades that you valued, right?

19 A Yeah. That looks like, yeah.

20 MR. ANDREOLI: Let's go to -- let's do the filtering,
21 Randall. Let's filter column BP for "Broker Run". And let's
22 go to Mr. Cen's initials in column BC.

23 BY MR. ANDREOLI:

24 Q Okay. So Mr. Tracey put this population of trades up on
25 the screen earlier. Do you remember that?

1 A Uh-huh.

2 Q Okay. And so I think you talked about the Ford loan CDS,
3 Sprint and Nextel CDS, right?

4 A Yep.

5 Q And CDX trade. Do you remember that?

6 A I -- we didn't talk about CDX -- oh, yes, we did, yeah.

7 Q Okay. So you didn't talk about the RAD trades, right?

8 A We didn't.

9 Q Did not, right?

10 A You say did we talk about that trade?

11 Q Right.

12 A We didn't.

13 Q Right.

14 MR. ANDREOLI: So let's go to column AE. I'm sorry.
15 AF.

16 BY MR. ANDREOLI:

17 Q Okay. So for those -- so let's just start with a little
18 background. What is RAD?

19 A I think it's a Rite Aid.

20 Q Right. Okay. And in column AF, which is the note for --
21 in rows 230, 231, it says, "using 5Y 40-45/43.5 from Goldman",
22 right?

23 A Yes.

24 Q And you're referring to a run you received from Goldman
25 there, right?

1 A Yes.

2 Q Do you recall what the date of that run was?

3 A No.

4 Q And you didn't see a run from Goldman in preparation for
5 your testimony here today, did you?

6 A From Goldman? I don't -- I don't recall.

7 Q Okay.

8 MR. ANDREOLI: Randall, can we just go to Exhibit
9 5961? Can we do the same thing? Let's do -- well, actually,
10 let's just look at the same rows, 230, 231.

11 BY MR. ANDREOLI:

12 Q So these are the same two Radian trades, right?

13 A Rite Aid, uh-huh.

14 Q And -- sorry. 5961 is the spreadsheet that we already
15 talked about. This is the Lehman Claim-Cen spreadsheet that
16 you filled out, right?

17 A This is my spreadsheet. Is that what you're saying?

18 Q Yes.

19 A Okay.

20 Q This is the one that we looked at before. You can look at
21 the metadata if you'd like. File name is Lehman Claim-Cen.

22 A Okay.

23 Q Okay. So if you go to column AE in this spreadsheet,
24 there was a different note, right?

25 A Yeah.

1 Q Okay. And it says "Using 5Y 34-36 off Citi run", right?

2 A Okay.

3 Q Okay. Do you recall why you moved from a Citi run of 34
4 to 36 to a Goldman run that was 40.5 to 43.5?

5 A I don't remember. Which one was -- which one -- this is
6 my spreadsheet, right?

7 Q Yes.

8 A I don't remember. Which -- which is the one that being
9 used --

10 Q So we can show you --

11 A -- for the claims? Like, which one is the one they send?

12 Q I'm not sure I can actually testify to that. If you look
13 at 2108, can I make the representation --

14 MR. ANDREOLI: Sure.

15 Q -- that that's the final? 2108's the final. That's the
16 one that has the Goldman run in it.

17 MR. ANDREOLI: Can you just go back to 2108, Randall?
18 Okay.

19 BY MR. ANDREOLI:

20 Q So this is what's been presented to us as the final.

21 So you don't remember how you switched, is that right?

22 A No. I don't remember I switched.

23 MR. ANDREOLI: Let's go to Exhibit 5973.

24 (Pause)

25 THE WITNESS: Okay.

1 BY MR. ANDREOLI:

2 Q Okay. So you'll see this is an e-mail you sent to Lehman
3 at QVT.com --

4 A Yes.

5 Q -- on September 21, right?

6 A Yes.

7 Q Okay. And the subject line says "Citi/Rite-Aid update",
8 right?

9 A Yep.

10 Q And then there's, in the lower right-hand corner, there's
11 numbers 34-36, right?

12 A Yes.

13 Q So this is the broker run that you used to populate the
14 earlier version of your spreadsheet, right?

15 A Yes.

16 Q Okay. There's no date on the broker run that you're
17 forwarding, right?

18 A Yeah. I said earlier probably Bloomberg sometimes --
19 depend on how you forward that, yes. This one did not have a
20 date associated with the --

21 Q Right. So you can't --

22 A -- (indiscernible).

23 Q So you can't tell sitting here today what the date was,
24 right?

25 A It has to be before 21st. That's all I can tell.

1 Q And did you check for broker runs on Rite-Aid that you
2 received on September 15th to do your valuation?

3 A The valuation -- when we calculate valuation, it's
4 calculated only a date is September 21st. And when we -- when
5 I calculate, I go -- search for earliest the quote, earliest
6 the broker quotes. And when I -- whichever the quotes I
7 receive from the Bloomberg, if this one's September 15th then
8 we use the September 15. If this one's September 17, I use the
9 September 17.

10 Q Okay.

11 MR. ANDREOLI: Let's go to Exhibit 5976, please.

12 BY MR. ANDREOLI:

13 Q Okay. So is this 5976 -- is this a broker run for Morgan
14 Stanley on Rite-Aid from September 15th of 2008?

15 A Okay.

16 Q And you received it, right? If you look on the second
17 page of the metadata, you'll see your name in the bcc line.

18 MR. ANDREOLI: Second page, Randall.

19 BY MR. ANDREOLI:

20 Q And, Mr. Cen, if it's easier, the hard copy's in the
21 binder, if you prefer --

22 A Okay.

23 Q -- looking at it like that.

24 A Okay. Yeah. Okay. If my name is there --

25 Q Okay.

1 A -- it's there.

2 Q Okay. But you didn't use this broker run that you
3 received on the 15th of September in your valuation, right?

4 A Not -- not in my valuation. I did not use it.

5 Q Okay.

6 A But --

7 MR. ANDREOLI: Let's go --

8 THE WITNESS: May I?

9 MR. ANDREOLI: Let's go back to the "Lehman
10 Position". And let's go back to 2108, please. Actually, let's
11 just move on.

12 BY MR. ANDREOLI:

13 Q Do you recall that QVT had a BQuotes (ph) database?

14 A Yeah.

15 Q And what was the BQuotes database?

16 A I think it we use the third party to capture the Bloomberg
17 --

18 Q Did you --

19 A -- message and then kept in the file. I think, if I
20 remember that.

21 Q And did you use the BQuotes database to search for broker
22 runs in connection with doing your valuation of these
23 transactions?

24 A I don't remember. At that time, BQuote database was
25 complete, like -- I don't remember the date, if I use that or

1 not use that. But -- I don't remember the BQuote. When was
2 that database completed? Like, was it before the Lehman or
3 after the Lehman. That I don't recall.

4 Q Okay.

5 MR. ANDREOLI: Let's go to -- Randall, if we could
6 reset the filters in 2108. Okay. Can we go to Mr. Cen's
7 initials in column BC? And then MarkIT in column BP. And then
8 if we could go to column W, please. And can we filter for
9 three percent?

10 BY MR. ANDREOLI:

11 Q Okay. So, Mr. Cen, you'll see that the 46 positions, you
12 see in the lower left-hand corner, that you used three percent
13 of bid-mid spread to add to these transactions, right?

14 A Yes.

15 Q And I think you said on direct that you used three percent
16 because you thought these positions were very liquid, right?

17 A Yes.

18 Q But despite the fact that they were very liquid, you
19 didn't value them using MarkIT data from 9/15, right?

20 A I'm not -- so we -- I use everything from -- study from
21 9/16th. Even though it's a liquidate doesn't mean like you can
22 trade on the 9/15, right? 9/16 is the -- 9/15 I told you was
23 the total chaotic day, so I don't even use that.

24 Q Did you try to enter into trades for any of these names on
25 September 15th?

1 A These trades? No, because I don't have a time. I have so
2 many more important trades to replace. These names are -- is
3 not going to move too much. So --

4 Q You said that you picked ten percent default bid-mid to
5 use in valuing many of the MarkIT transactions, right?

6 A Yeah.

7 Q Have you ever seen any document that describes why you did
8 that?

9 A No. I don't --

10 (Pause)

11 MR. ANDREOLI: Okay. Randall, can we clear the
12 filtering. Let's go to the TiFi. Can we search in column B
13 for DRI? Can we go to column BC?

14 BY MR. ANDREOLI:

15 Q Okay. So, Mr. Cen, we focused on four trades with the
16 type DRI. Do you remember what DRI stands for?

17 A I forgot.

18 Q Okay. And but you valued these, right?

19 A Yeah.

20 Q Okay. And if we go to column BP, we'll see that you
21 valued two using "List" and two using MarkIT, right?

22 A Yeah.

23 Q Was DRI a single-name CDS?

24 A Yeah.

25 Q So let's go to the "Corporate List" tab, please.

1 MR. ANDREOLI: Okay. Can we filter, Randall --
2 filter column A for DRI, please?

3 BY MR. ANDREOLI:

4 Q Okay. So you see --

5 MR. ANDREOLI: Let's scroll out to the right.

6 BY MR. ANDREOLI:

7 Q Okay. So you got two quotes on one of these DRI
8 transactions and one quote on the other, right?

9 A Yes.

10 Q Okay. And you used the two quotations to value that DRI
11 position, right?

12 A For the short-dated.

13 Q Okay. Let's go back to column A just so you can see which
14 one the short-dated is.

15 A It's the first one is short-dated.

16 Q Right.

17 A Yeah.

18 Q So that's the one you used to quote for.

19 A Yes.

20 Q And you didn't use the quote on the second one, right?

21 A No. And this was the longer dated so the quotes are
22 probably not that -- as accurate as a market data. Market data
23 has a full curve and longer date because they have a multiple
24 quotes to compile for each data points. That's why longer
25 dated market data probably is better.

1 Q So for the first position, you got two quotes, right? And
2 you used the average of the two quotes to value the
3 transaction?

4 A Probably I -- I don't remember.

5 MR. ANDREOLI: If we go back to the "Lehman
6 Positions - Master". Okay. And if we go to -- let's go to AG,
7 I think.

8 BY MR. ANDREOLI:

9 Q Okay. So what's the mark you used -- the spread you used?

10 A It's 142 and a half.

11 Q Right. And that was the average of the two quotes we saw,
12 right?

13 A Yes, uh-huh.

14 Q But if you were actually entering into a replacement, you
15 would have done with the 185 you received, right?

16 A I'm not sure which one -- can you go back the other mark?

17 (Pause)

18 A I don't remember what would be -- I don't remember why UBS
19 is more credible than JPMorgan. On either case, I don't know.

20 Q But UBS was axed, right? They were saying they wanted to
21 trade with you?

22 A Yes. I -- I didn't enter these axes but I just used the
23 average. I don't remember -- if I value these things and if
24 there's a average quote, I just use average quote. I don't
25 necessarily want to pick any one specifically.

1 Q But if you were actually doing a replacement trade, you
2 would have done the replacement trade.

3 A If I do a replacement trade, I will call people with axe,
4 yes.

5 Q Okay.

6 MR. ANDREOLI: Let's go back to Fred 961 which is the
7 Lehman Claim-Cen sheet. Okay. And let's scroll down to row
8 268. Okay. Can we go down a little bit more, Randall?

9 BY MR. ANDREOLI:

10 Q Okay. And you see, Mr. Cen, at row 268 to 279, there's a
11 GMAC Ford credit account and a bunch of trades associated with
12 that?

13 A Yeah.

14 MR. ANDREOLI: If you could scroll out to the right?
15 I think it's column AE. Yeah. Sorry. Go back. Column Y.
16 Okay.

17 BY MR. ANDREOLI:

18 Q Mr. Cen, did you use 9/25 MarkIT marks to value these
19 trades?

20 A If this is my spreadsheet, I probably did.

21 Q And why would you use MarkIT spreads from 10 days after
22 Lehman's bankruptcy to value these trades?

23 A I don't remember but, in general, I think a GMAC was a
24 very -- very distressed at the time, almost filings. So I
25 don't remember specifically why I had to use 9/25 instead of

1 early date.

2 Q Was Ford distressed at that time?

3 A Ford was distressed as well, yeah.

4 Q So MarkIT didn't have marks for -- or spreads for 9/15 or
5 the week of Lehman's bankruptcy filing?

6 A I don't recall.

7 MR. ANDREOLI: Let's go back to "Lehman Positions -
8 Master" tab. Yeah, that's right.

9 BY MR. ANDREOLI:

10 Q So we're back in Exhibit 2108 which is the final version.

11 MR. ANDREOLI: Let's clear the filters, Randall and
12 go back to the same area starting 268, I think. Yeah. Okay.

13 BY MR. ANDREOLI:

14 Q And do you see that the date in this sheet is 9/16?

15 A Okay.

16 Q Do you recall the date being changed from 9/25 to 9/16
17 after submission of the calculations statement?

18 A No. Maybe somebody find the mark.

19 Q So you weren't involved in that?

20 A I don't have a recollection so I don't remember, in fact,
21 how they changed.

22 MR. ANDREOLI: Just confer for a moment, Your Honor?

23 THE COURT: Sure.

24 (Pause)

25 BY MR. ANDREOLI:

1 Q Just a couple additional questions, Mr. Cen.

2 Did you have a meeting with Michael Newman of Lehman
3 Brothers a few weeks after Lehman Brothers filed for
4 bankruptcy?

5 A Meeting with Michael Newman after bankruptcy?

6 Q Yes.

7 A I don't remember.

8 Q And so you left the company in -- you left QVT in 2010, is
9 that right?

10 A '10, yeah.

11 Q Okay. Do you have any agreements with QVT relating to
12 your testimony today?

13 A No.

14 MR. ANDREOLI: Okay. Nothing further, Your Honor.

15 THE COURT: All right. Thank you. Mr. Tracey?

16 MR. TRACEY: Very briefly, Your Honor?

17 THE COURT: Yes.

18 MR. TRACEY: I know the Court has a breaking point
19 (indiscernible) but I'll be done long before that.

20 THE COURT: I can give you some leeway. No problem.

21 REDIRECT EXAMINATION

22 BY MR. TRACEY:

23 Q I just wanted to clarify one part of your testimony.

24 Do you recall telling Mr. Andreoli that this is with
25 regard to calling dealers on September 15th?

1 A Uh-huh.

2 Q I think you testified that you couldn't remember any
3 specific dealers that you called on September 15th, is that
4 right?

5 A Right. I don't remember a specific dealer I call.

6 Q But what I want to clarify is do you have a recollection
7 that, in fact, you did call dealers on September 15th without
8 regard to who they were, to tell them that a market quotation
9 would come?

10 A Yeah.

11 MR. TRACEY: That's all I have. Thank you.

12 THE COURT: Okay.

13 Mr. Cen, thank you very much.

14 THE WITNESS: Okay.

15 THE COURT: You're excused.

16 (Witness excused)

17 THE COURT: Okay. Well done timing wise and
18 otherwise.

19 All right. So we'll be back at 1:30, right, with Mr.
20 Sale?

21 MR. TRACEY: Yes, Your Honor.

22 THE COURT: All right. And do you expect that that
23 will take the remainder of the day?

24 MR. TRACEY: It's the only witness we have and I --

25 THE COURT: Right.

1 MR. TRACEY: I suspect it will take most of the
2 afternoon.

3 THE COURT: Okay. All right. Thank you very much.

4 (Recess from 12:25 p.m. until 1:39 p.m.)

5 DAWN

6 THE COURT: Okay. Ready when you are.

7 MR. TRACEY: Okay. Your Honor, QVT calls Julian
8 Sale.

9 THE COURT: Mr. Sale, would you please stand up and
10 raise your right hand.

11 JULIAN SALE, WITNESS, SWORN

12 THE COURT: Very good. Have a seat, make yourself
13 comfortable. Let us know if you would like a break or need
14 some water.

15 Yes, Ms. Sawyer?

16 MS. SAWYER: Your Honor, I just want to note for the
17 record --

18 THE COURT: Yes.

19 MS. SAWYER: -- that Lehman has an objection to this
20 witness being called.

21 THE COURT: Okay.

22 MS. SAWYER: The objection is going to be filed under
23 seal with the Court, but I just wanted to note our objection
24 before his examination began.

25 THE COURT: Right. And we -- based on conversations

1 that we have had I've indicated to you my disposition of
2 Lehman's objection and we're going to move forward on that
3 basis.

4 MS. SAWYER: Thank you, Your Honor.

5 THE COURT: All right? Thank you.

6 DIRECT EXAMINATION

7 BY MR. TRACEY:

8 Q Would you state your full name for the record, please?

9 A Julian Robert Sale.

10 Q And Mr. Sale, would you tell us about your educational
11 background, please.

12 A I graduated from the London School of Economics with a
13 degree in economics with computing.

14 Q And --

15 COURT REPORTER: I'm sorry, I didn't hear the answer.

16 THE WITNESS: I'm sorry. A degree in economics with
17 computing.

18 BY MR. TRACEY:

19 Q And do you have any other degrees or licenses?

20 A I do not, no.

21 Q Would you briefly describe after you graduated from
22 college your employment background?

23 A So my first job was working for an UK English merchant
24 bank called Hambros. I was training in their foreign exchange
25 department and I traded sterling-based interest rate products

1 until -- from about 1986 to 1992.

2 I left Hambros and joined a bank -- NatWest Bank. NatWest
3 were -- had a group within their equities division that was
4 trading long (indiscernible) equity derivatives and they needed
5 an interest rate specialist to hedge some of the interest rate
6 risk in their portfolio, so I joined them in 1992 in London.
7 That effort did not succeed and so NatWest transferred me to
8 New York in 1994. And we started building a product -- a
9 department that eventually came the Prime Brokerage department
10 at NatWest.

11 NatWest was then subsequently taken over by Deutsche Bank,
12 and we continued in the same department but effectively now
13 under the Deutsche Bank banner until
14 around -- I left Deutsche Bank in 2005.

15 Q And when you were at Deutsche Bank did you work at the QVT
16 desk at all?

17 A I did not, no.

18 Q And after you left Deutsche Bank in 2005 what did you do?

19 A So I left in 2005, I took a little time off, and then was
20 approached by Dan Gold and Nick Brumm. We had a little bit of
21 a relationship. We were managing directors at Deutsche Bank so
22 we'd known each other through some events from -- some managing
23 director events at Deutsche Bank. And also QVT used to prime
24 broker their product with Deutsche Bank Prime Brokerage and so
25 I knew them. So we knew each other. And after I left, they

1 approached me about
2 joining -- to join QVT.

3 Q And did you at some point join QVT?

4 A I joined QVT in August of 2005.

5 Q And what was your position when you joined?

6 A CFO.

7 Q And what were your responsibilities there as CFO?

8 A So I think overall I was responsible for the non-investing
9 part of the portfolio. So I think all the senior members of
10 the firm were all investment specialists and they needed
11 someone on a more senior role but in a non-investment side. So
12 I -- the bulk of my responsibilities was the
13 non-investment side of the business.

14 Q And were your responsibilities any different in 2008 from
15 what you just described?

16 A No.

17 Q And did -- how long did you stay with QVT?

18 A I started in August 2005 and I left officially at the end
19 of 2015.

20 Q And do you have any agreement with QVT regarding your
21 departure?

22 A I do, yes.

23 Q Let me ask you, if you have a book there to turn to
24 Claimant's Exhibit 2149. Is it in the book? Oh, it's in the
25 pocket, yes.

1 A Okay. Yeah, I've got it.

2 Q Is -- can you identify Claimant's Exhibit 2149?

3 A That is my separation agreement.

4 Q And there are certain sections of this agreement that have
5 black marks on them. Are those black marks on the original?

6 A No.

7 Q Okay. So under this agreement, what were the terms of
8 your arrangement with QVT?

9 A So as I said, I left in the end of 2015, this agreement
10 was earlier in May of 2015, it's -- it governs my separation
11 but also the termination and transition from QVT. So a
12 lot -- in that year of 2015, I was responsible for making sure
13 that all of the duties that I was currently doing at that point
14 were transitioned to someone else within QVT and properly
15 transitioned; they were properly trained for what they needed
16 to do. So that was part of it.

17 The second part there was a number of obligations as a
18 departing partner, solicitation and things like that.

19 And then the other part was governing my relationship with
20 QVT on continuing to work with them on the claims against
21 Lehman Brothers.

22 Q And what responsibilities did you have under this
23 agreement with regard to the claims against Lehman Brothers?

24 A Generally the same as I was doing before while I was full-
25 time employed.

1 Q And would you describe generally for the Court what those
2 responsibilities were?

3 A So I probably was taking lead in our claims against the
4 Lehman prime brokerage, Lehman's repo. I had worked with the
5 estate as well on some of the other ISDA agreements that we
6 had. And I was probably taking the lead, I think, on the
7 relationship between QVT and Lehmans as we tried to -- through
8 the life tried to sort of see if we could resolve this issue in
9 a -- before we got to this stage.

10 Q Okay. Let's go back to the agreement. Under the
11 agreement, did you withdraw as a partner of QVT?

12 A Partially yes. I think in most respects, I withdrew as a
13 partner, but I still stayed on as a partner for the purposes of
14 this Lehmans.

15 Q For the purposes of?

16 A Of the Lehman's component.

17 Q And there's a section of this agreement called Lehman
18 allocation. Are you familiar with that?

19 A Yes.

20 Q And would you describe what the agreement was between you
21 and QVT as referenced in the Lehman allocation, which I think
22 is Section 2(b) of your agreement?

23 A Yes. So this described what I could potentially be paid
24 depending on various scenarios. It described about how I
25 potentially could get paid --

1 Q Okay.

2 A -- for working on this.

3 Q And would you describe how that allocation was intended to
4 work?

5 A So it's -- you first of all take whatever --

6 COURT REPORTER: (Indiscernible).

7 THE WITNESS: I'm sorry. Am I speaking too fast or
8 I'm okay?

9 COURT REPORTER: (Indiscernible).

10 THE WITNESS: I'm sorry. It's based on the final
11 claim amount that's agreed with the estate, less a base number,
12 which is approximately \$58 million, multiplied by a percentage,
13 that percentage is 2 and a quarter percent, and then that
14 number is then converted into actual dollars as opposed to
15 claim amount received by QVT.

16 BY MR. TRACEY:

17 Q And when you say it's converted to dollars through a claim
18 amount what does that mean?

19 A So it's -- I don't think anyone thinks that Lehman is
20 going to pay 100 cents on the dollar, so there will be some
21 value of the claim in the markets, and so it'll be based on
22 that value in the market.

23 Q Okay. And do you have an understanding of why the amount
24 is over \$58 million?

25 A I think at the time that was sort of the understanding of

1 where the current level of the valuation by the estate was.

2 Q And are there any conditions to your receipt of the Lehman
3 allocation?

4 A Yes. It's not automatic that I receive this even if there
5 is a claim value higher than 58 million. This is part of a
6 portfolio, and so the general partner will receive an
7 allocation in that portfolio and only if the overall value of
8 that portfolio, which includes other transactions, does the
9 general partner receive an allocation then I will receive cash
10 out of that allocation.

11 Q And under what circumstances will -- would the general
12 partner receive an allocation as opposed to not receive an
13 allocation?

14 A So overall, we need to have made a profit for the
15 investors in this portfolio. So any losses that are previously
16 taken have to be recovered. Any losses in other parts of the
17 portfolio have to be made up assuming that there's a positive
18 amount of money after those events. Then the general partner
19 receives an incentive and that was part of the allocation paid
20 to me.

21 Q And did you have any conversations with anyone at QVT
22 about how the structure and amount of the Lehman allocation was
23 determined?

24 A So my understanding was when -- obviously, we discussed
25 this as I was transitioning and negotiating this document --

1 but my understanding was that this formula was a proxy for how
2 I might have got paid at QVT had I stayed a full-time employee.

3 Q And had you stayed at QVT as a full-time employee, would
4 your pay have been subject to the condition that we discussed a
5 few minutes ago, that is, that the general partner would be --
6 would receive an allocation from the portfolio?

7 A Potentially, yes. There was other income to the manager,
8 but ultimately, we could only pay our employees what we
9 received from our investors.

10 COURT REPORTER: (Indiscernible).

11 MR. TRACEY: Did you hear that last thing?

12 COURT REPORTER: (Indiscernible).

13 MR. TRACEY: Okay.

14 BY MR. TRACEY:

15 Q Okay. And in addition to the Lehman allocation that's set
16 forth in Claimant's Exhibit 2149, do you have any interest in
17 what's been called the side pocket?

18 A I do, yes.

19 Q And would you just describe for the Court what the side
20 pocket is?

21 A The side pocket just generally or my interest?

22 Q Just generally and then we'll talk about your interest.

23 A The side pocket was an attempt in 2008 after the
24 bankruptcy of Lehmans -- we had claims at that point. We
25 didn't know what those claims were going to be worth or -- we

1 had claims of course against a whole bunch of Lehman entities.
2 And what we were trying to do was isolate any benefit for any
3 recoveries made on those claims just to those investors that
4 were invested in September 2008. So by creating a side pocket
5 with just the members of or the partners of QVT at that point,
6 any payment that we received in the future would just go to
7 those people that lost money in 2008.

8 Q And what is your interest in the side pocket?

9 A So I have -- I was an investor in QVT Funds in 2008. So
10 like everybody else, I have an allocation to that side pocket.
11 I'm also an investor in -- currently in QVT Funds and some of
12 those funds have purchased side pocket interests subsequent to
13 2008. So part of that portfolio is made up of side pocket
14 interest.

15 Q And do you know the approximate percentage of your
16 interest in the side pocket?

17 A I think it's somewhere between 10 and 20 basis points.

18 Q Okay. I'd like to take you back to 2008 now and talk
19 about your reporting to your investors. Was it among your
20 responsibilities to be responsible for reporting to investors?

21 A Yes.

22 Q And what financial reporting did QVT do at that time to
23 its investors?

24 A So the two main reports that we sent to our investors,
25 each month we prepared an NAV statement, evaluation of each

1 investor's account at QVT, that was prepared with Citco.
2 Citco, at the time, were our administrator, they were our
3 official books and records. So we would work with Citco to
4 come up with a valuation of the portfolio. And through that
5 evaluation of each individual's account, and that was provided
6 by Citco. And then each year our funds would be audited by
7 PWC, PricewaterhouseCoopers, and that -- the results of that
8 audit would be sent by Pricewaterhouse to our investors.

9 Q And as part of your monthly and annual reporting, did you
10 put -- did QVT put values on its positions, including its
11 derivative positions?

12 A Yeah. We attempted every month to put a valuation on
13 every position.

14 Q And did you also do so annually?

15 A Annually, yes, because that was our December month end, so
16 yes.

17 Q And did you have a policy for the valuation of your
18 positions back in 2008?

19 A I think back in 2008 our valuation procedures were
20 governed by or guided by two policies. In our offering
21 documents, the documents that we provided to our investors,
22 there was a description of how we would determine NAV, our net
23 asset value, which included valuation of instruments. And also
24 in 2008 was the first time that we were required to follow FAS-
25 157, which was standard from the accounting industry on how to

1 value securities.

2 Q And you said FAS, can you explain what that is?

3 A This is the financial accounting standards board. These
4 are -- this is the board that gives guidance on how to produce
5 GAAP financials.

6 Q And what is GAAP?

7 A Generally accepted accounting principles, I think. I hope
8 I don't know.

9 Q Okay. Could you turn to Defendant's Exhibit 5254? Can
10 you identify that document?

11 A This looks like -- this is the annual audit that we sent
12 to our investors. This one is for QVT Fund, but there would
13 have been something similar for the Quintessence Fund. This
14 would have been the financials that -- prepared by PWC that
15 would have gone to our investors in early 2009 for the year
16 2008.

17 Q Okay. And does -- do these financial statements include a
18 statement of your valuation policy --

19 A They do, yes.

20 Q -- for 2008?

21 A They do, yes.

22 Q Can you identify that for the Court?

23 A The policy starts on page 43 under the section investments
24 and valuations, and there's a section on general valuation
25 principles, and then it continues through to page 46 where

1 there's a description of FAS-157.

2 Q Okay. And would you summarize what is required by
3 FAS-157? I know it's complicated, but if you could just give
4 the -- a brief summary.

5 A Yeah. I think that first line under the paragraph that's
6 headed by FAS-157. What -- my understanding was that prior to
7 2008 there was a number of ways that a portfolio could be
8 valued, and what FAS was trying to do was come up with a single
9 definition, which they called fair value, and they defined fair
10 value as the price that would be received to sell an asset or
11 pay to transfer a liability in an orderly transaction between
12 market participants on the measurement date.

13 Q Okay. And can you -- I'd like to direct your attention to
14 the last two sentences in that paragraph. Maybe you could read
15 them into the record.

16 A "The transaction to sell the asset or to transfer the
17 liability is a hypothetical transaction at the measurement date
18 considered from the perspective of the market participant that
19 holds the asset or owns the liability. Therefore the objective
20 of fair value measurement is determined an exit price for the
21 asset or liability."

22 Q And what is an exit price for the asset or liability?

23 A This was I think quite an important principle that this
24 FAS-157 was trying to describe. It is the price -- it says in
25 the first line, it's the price that would be received to sell

1 an asset. So you're looking at it from your own perspective,
2 if you (indiscernible) a position, if you hold a position it's
3 the price that you would get if you sold that position or
4 hypothetical price if you sold that position on the valuation
5 date.

6 Q And did QVT follow that guidance in marketing its
7 positions in 2008?

8 A Yes.

9 Q And did FAS-157 provide for any guidance on what types of
10 pricing inputs would be used by reporting entities to value
11 their positions?

12 MS. SAWYER: Objection.

13 THE COURT: Yes, Ms. Sawyer?

14 MS. SAWYER: Foundation.

15 THE COURT: Are you speaking to the previous
16 question?

17 MS. SAWYER: Well to two questions before --

18 THE COURT: Okay. Go ahead.

19 MS. SAWYER: -- I believe, and then this question
20 just --

21 THE COURT: All right.

22 MS. SAWYER: We need to establish some foundation I
23 think.

24 THE COURT: All right. So --

25 MR. TRACEY: Sure.

1 THE COURT: -- I think Ms. Sawyer was standing up as
2 you were wrapping up the previous question, so can you do a
3 little more foundation with respect to both? This question --
4 the pending question and the previous question.

5 MR. TRACEY: Sure.

6 BY MR. TRACEY:

7 Q What was your personal involvement in the process of
8 reporting the value of positions that QVT held to investors?

9 A So it was my team that was overall responsible for valuing
10 the portfolio, reviewing the portfolio, and working with Citco
11 on the NAV, and it was the same team and people appointed to me
12 that were responsible for working with PWC on the production of
13 the financials.

14 Q And whose -- was it your responsibility to ensure that the
15 reporting was in accordance with FAS-157?

16 A Overall I would say I also signed off on the -- on our
17 financials, but they were our financials, they were the
18 financials of QVT management, so I would say I was responsible
19 for preparing those financials.

20 Q Okay. So let me go back to the question I asked, which
21 was did FAS-157 provide for any guidance on what types of
22 pricing inputs would be used by reporting entities to value
23 their positions?

24 THE COURT: Okay.

25 MS. SAWYER: I still have a foundational objection.

1 THE COURT: Maybe you can articulate it a little more
2 clearly.

3 MS. SAWYER: Should we approach?

4 THE COURT: Yeah, why don't you.

5 (Sidebar conference off the record)

6 BY MR. TRACEY:

7 Q Mr. Sale, what was your understanding in 2008, if any,
8 about what guidance was provided by FAS-157 on pricing inputs
9 for marketing positions?

10 A So both 157 and our internal policies emphasized using
11 third-party prices.

12 Q Let me -- you actually referred I think to a guidance in
13 your offering memorandum in addition to what's in the financial
14 statements?

15 A Yes.

16 Q Let me ask you to look at Joint Exhibit 29. Can you
17 identify that document?

18 A This is the offering document for QVT's Overseas feeder,
19 QVT Overseas Limited.

20 Q And how does that relate to QVT Fund?

21 A Monies -- investors came in either through a domestic
22 feeder if they're American or came in through an offshore
23 feeder if they were tax exempt or foreign. Those feeders would
24 essentially move their monies down to the QVT Fund and we would
25 run it as one portfolio.

1 Q And does this document have any guidance with respect to
2 the valuation of QVT's positions?

3 A Yes. There's a lot of disclosure in here, but I think
4 particularly on valuations I think it starts on page 85,
5 determination of net asset value.

6 Q Okay. And let me direct your attention to a section of
7 that. If you could look at page 86.

8 A Yes.

9 Q There's a sentence that begins about two-thirds of the way
10 down, I'll read it to you. It says:

11 "The investment manager (in consultation with and subject
12 to the approval of the board of directors) will not price a
13 long position above the level at which it desires but
14 determines that it cannot sell such position due to a lack of
15 real rather than indicative buyers."

16 Do you see that?

17 A Uh-huh.

18 Q Would you describe what that's referring to?

19 A Again, this is the same principle of trying to price to
20 third parties. We did have liquid positions in the portfolio,
21 and just because something was a liquid that in itself was not
22 a reason for the manager to market where it thought it was
23 worth. What we're trying to say here is that there still is a
24 presumption that we will price it to what the rest of the
25 market is trading or where we believe the market would trade

1 it.

2 Q And to the extent that you are aware, did QVT follow the
3 guidance of FAS-157 in reporting its net asset value in 2008?

4 A Yes.

5 Q And to the extent of your knowledge did QVT follow the
6 valuation policy that's set forth in this offering memorandum
7 in 2008?

8 A Yes.

9 Q And I think you testified that you would do this valuation
10 process on a monthly basis. Did you have valuations on a daily
11 basis as well?

12 A We attempted to do what would better describe as a profit
13 and loss each day. We only did a net asset value once a month,
14 that was the time that or the date that investors could
15 withdraw or subscribe. But we did try to value the portfolio
16 or at least the stuff that was -- prices that were available on
17 a daily basis.

18 Q And did QVT remark every position each day?

19 A If there was prices available in the market then we could
20 remark a position. If nothing was available the systems tend
21 to just inherit the previous days price.

22 Q I'd like to turn to the subject of the filing -- the
23 bankruptcy filing of Lehman. In the period leading up to the
24 filing was there any concern on the part of QVT about Lehman's
25 viability?

1 A Yes.

2 Q And were any steps taken to address that risk?

3 A We did try and reduce quite substantially our overall
4 relationship with Lehmans, yes.

5 Q And did you participate in that process?

6 A I did, yes.

7 Q And what did you personally do to reduce your exposure to
8 Lehman?

9 A So we had a number of relationships with Lehmans not just
10 the LBSF relationship that we're talking about here, we had a
11 very large prime brokerage relationship. There was I think
12 that month there was approximately \$2 billion of long and short
13 securities within Prime Brokerage. We actually had a repo
14 relationship where we were borrowing or lending bonds. Some of
15 those bonds were the Argentinean and Venezuelan sovereign
16 bonds, there was also U.S. bonds as well. And we also had
17 relationships -- much smaller relationships with two other
18 derivative entities.

19 THE COURT: Ms. Sawyer?

20 MS. SAWYER: I just --

21 THE COURT: Hold on one second.

22 COURT REPORTER: We also had relationships with --

23 THE WITNESS: Two other smaller Lehman entities.

24 Was that it?

25 MS. SAWYER: I just wanted to note -- or I guess

1 object for the record to the use of Lehmans as a general term
2 when we have sort of specific Lehman entities being referred
3 to. So if we could maybe have some follow up to clean up this
4 that would be great.

5 THE COURT: Okay. Mr. Sale, going forward, to the
6 extent that you can, differentiate between the prime broker, on
7 the one hand, and Lehman Brothers Holdings, LBSF, and the other
8 Lehman counterparties on the other hand. If you can do that,
9 it would make the record a little cleaner.

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: All right. Thank you.

12 BY MR. TRACEY:

13 Q So for my next questions, I'm going to be focusing on
14 LBSF.

15 A Yeah.

16 Q Did you seek to recover in the period prior to the
17 bankruptcy filing any margin that was posted with Lehman?

18 A Yes. I was reminded of this. I don't remember it
19 explicitly, but I was reminded by an e-mail that I saw
20 preparing, first of all, for the depositions that we had asked
21 Lehman Brothers in the week prior to their failure to return
22 the initial margin.

23 Q And let me see if I can refresh your recollection again.

24 Would you look at Joint Exhibit 45, please.

25 A Yes.

1 Q Is this the e-mail you're referring to?

2 A It is, yes.

3 Q And you don't recall this?

4 A I don't recall actually sending the e-mail, but I
5 was -- now I -- you know, it's familiar now, but it wasn't at
6 the time.

7 Q And did you -- did this refresh your recollection that you
8 had been seeking return of the initial margin?

9 A It did, yes.

10 Q And are you aware that a collateral call was made by QVT
11 to LBSF on September 16th, 2008?

12 A Again, I'm aware now, I don't remember it at the time, but
13 I'm aware now.

14 Q Okay. Let me direct your attention to Defendant's Exhibit
15 5169. Is this the collateral call that you became aware of?

16 A Yes.

17 Q Okay. And this refers to a "MTM movement from EOB 9/12 to
18 9/15 for plus 12 million in QVT and 1.3 million in
19 Quintessence." Do you see that?

20 A I do, yes.

21 Q And have you compared those numbers to what's in QVT's
22 actual books and records?

23 A I've tried, yes.

24 Q And have you looked at the mark-to-market change from 9/12
25 to 9/15 on QVT's books and records?

1 A Yes.

2 Q And let me --

3 MR. TRACEY: Could I ask, John, to bring up 2111?

4 (Pause)

5 MR. TRACEY: Thank you.

6 BY MR. TRACEY:

7 Q So, Mr. Sale, I've placed in front of you Claimant's
8 Exhibit 2111. Can you identify that document?

9 THE COURT: Yes?

10 MS. SAWYER: I have an objection.

11 THE COURT: Okay.

12 MS. SAWYER: There is --

13 THE COURT: You want to come up?

14 MS. SAWYER: Maybe. It might be easiest, yes.

15 Sorry.

16 THE COURT: I don't know how to deal with a maybe
17 answer.

18 (Sidebar conference off the record)

19 BY MR. TRACEY:

20 Q So, Mr. Sale, can you identify this document?

21 A This is a spreadsheet. I think it was a spreadsheet that
22 I prepared and it shows the mark-to-market value in our systems
23 for each one of the CDSs against LBSF.

24 Q And --

25 A I'm sorry. And each column represents that value on

1 different days.

2 Q Okay. And would you describe, please, how you prepared
3 this document and what the source of the information was.

4 A This is an extract from Tiki. Tiki is our internal
5 computer system, and this is a dump from its database.

6 Q Okay. And so if you could focus on column A and tell me
7 what's listed in column A?

8 A So this, the thing we call a TiFi, which is just an
9 internal unique identifier, it's unique to QVT, but it's how we
10 referenced a particular instrumental security.

11 Q Okay. And then going to columns B through G, could you
12 describe what those represent?

13 A So each column represents a different day, and it is the
14 market value of that position as of the close of business that
15 day.

16 Q In QVT's books and records?

17 A In QVT's books and records. I'm sorry, yeah.

18 Q Okay. So let's -- and in order to determine the mark-to-
19 market value change from one day to another how would you do
20 that?

21 A I would subtract one day from the other.

22 Q Okay. So let's look at the mark-to-market value on
23 September 12th for the LBSF positions. I don't think there's a
24 total so --

25 A Yeah, I think -- can you not include the date at the top?

1 And just --

2 (Pause)

3 Q Okay. So what is the total mark-to-market value in QVT's
4 books as of September 12th?

5 A It would help -- if there was commas it would be easier to
6 see, but it's -- excellent. Thank you.

7 So that shows that this portfolio on QVT's books was worth
8 115 million on the 12th.

9 Q Okay. So let's go to the 15th.

10 MR. TRACEY: John, if you could do that again that
11 was great.

12 THE WITNESS: If you just drag it and drop it across
13 with that help? And that shows 110 million.

14 BY MR. TRACEY:

15 Q Okay. And so roughly speaking what was the change in
16 mark-to-market value of the LBSF positions between
17 September 12th and September 15th?

18 A Showing negative five million dollars, that means in our
19 books and records we're showing that it actually went against
20 us and in Lehman's favor by five million dollars.

21 Q And did you look at in connection with determining what
22 QVT's books and records showed the collateral value -- the
23 initial collateral value that was being held against the LBSF
24 positions?

25 A Yes.

1 Q Let's go to Claimant's Exhibit 2108, please. Would the
2 initial margin be in this 2108 (indiscernible)?

3 A Yes. Yes.

4 Q Do you know where it would be?

5 MR. TRACEY: Can you scroll the tabs across? There
6 should be a tab for -- per margin at the end there.

7 BY MR. TRACEY:

8 Q Okay. What does that sheet represent?

9 A This was a snapshot, you can see the date in the far left-
10 hand corner, this was a snapshot from a system that we called
11 Modo (ph). Modo was a subsystem of Tiki, and that was the
12 system that was used to -- used for margin with our various
13 bank counterparties. And so this is a view of the Lehman's
14 portfolio as we saw it in September 2008.

15 Q Do you know more specifically what date these numbers
16 represent in the Modo system?

17 A I think this was close of business of 2000 -- sorry --
18 September the 11th. So what we would be seeing on the 12th.

19 Q Okay. And can you determine what the initial margin was
20 against these positions at that time?

21 A Yeah. Can you scroll a little bit further to the right?
22 You should see something called -- on that page. There should
23 be something called initial margin. Yeah, column O. There.

24 That one actually allowed us to sum it, you can see right
25 at the bottom line there you can see sum is. Again, without

1 the commas, but 18.6 million.

2 Q 18.6 million. So that was the initial margin that had
3 been posted by QVT as of September 11th, 2008?

4 A Slightly different. This was -- the initial margin was
5 netted off against variation margin, so effectively the amount
6 of margin -- Lehman's was actually overall posting to us at
7 that point because the variation margin was so large, but the
8 amount was reduced down by the initial margin. So it had the
9 effect of then giving us \$10 and we giving them 3, net, net,
10 they gave us 7, but my silly example the 3 was the initial
11 margin, yes.

12 Q Okay. And if one were to determine what the net amount
13 was due from Lehman to QVT in initial margin net of the mark-
14 to-market from September 12th to September 15th what would that
15 amount be?

16 A This is the \$17 million.

17 THE COURT: Hold on. Hold on one second. I'm sorry.

18 MS. SAWYER: Objection. I think vague -- or
19 ambiguous question. I think the question is not clear at all.

20 MR. TRACEY: Well, I'll ask it again.

21 THE COURT: Okay.

22 BY MR. TRACEY:

23 Q We talked before about what the mark-to-market change was
24 between September 12th and September 15th, correct?

25 A Yes.

1 Q And what was that number?

2 A Approximately five negative.

3 Q Five million negative?

4 A Five million negative, yeah.

5 Q And if one were to net out that number against the initial
6 margin that was being held by Lehman what would the amount be?

7 A The number there is the \$18 million; that's the initial
8 margin component. So I would subtract \$5 million from
9 \$18 million, the initial margin component and the variation
10 margin component, and that would get you to the \$13 million.
11 Here, we're talking both for QVT and Quintessence, so it's
12 combined numbers. So just adding the two numbers on the
13 e-mail from what we were just talking about.

14 Q And in -- okay. Let me ask you about practices in the
15 market with regard to initial margin. Do you have experience
16 with dealing with dealers on initial margin?

17 A Yes.

18 Q And collateral payments?

19 A Yes.

20 Q And were you involved in that process at QVT?

21 A Yes.

22 Q And what is the -- is there a standard in the industry as
23 to whether as to what happens to initial margin when the
24 positions that underlie it are terminated?

25 A The amount of initial margin is always, at least in my

1 experience, always paid by the hedge fund to the bank. It is
2 initially paid when a transaction is entered into. And then
3 when that transaction is terminated, finishes, matured then the
4 bank is obliged to return that initial margin.

5 Q And just one more question on margin calls. Did -- when
6 there was a margin call between Lehman and QVT in 2008 did
7 Lehman send confirmations of the margin amounts?

8 A Yeah. The banks were always the calculation agents, so
9 Lehman is included. So they would send some sort of statement,
10 a paper statement, sometimes an electronic statement, with the
11 calculation and the net margin call.

12 Q And let me turn to -- ask you to turn to Joint
13 Exhibit 49. Can you identify that document?

14 A Yes.

15 Q What is it?

16 A This looks like a paper margin call from LBSF to QVT
17 Funds.

18 Q And were you knowledgeable about the standard form of
19 Lehman Brothers collateral statement back in 2008?

20 A I think so, yes.

21 Q And is this in the standard format?

22 A Yes.

23 Q I'd like to direct your attention not so much to the
24 numbers but to the text that's included on page 2.

25 A Okay.

1 MR. TRACEY: It's pretty small. I don't know if John
2 can --

3 THE WITNESS: Yeah. It helps a little bit.

4 MR. TRACEY: There we go. Okay. Thanks John. Oh,
5 that's great.

6 BY MR. TRACEY:

7 Q Could you -- well, why don't you read the first paragraph
8 into the record, if you don't mind.

9 A All right.

10 "The below estimated value/values are as of the date
11 indicated and do not represent actual bids or offers by Lehman
12 Brothers. There can be no assurance that actual trades could
13 be completed at such values. Unless otherwise specified, the
14 below valuations represent mid-market valuations. Mid-market
15 values attempt to approximate the current economic value of a
16 given position using prices and rates at the average of the
17 bids and the offer for the respective underlying assets or
18 reference rates. Discussions of trade values in general and
19 indicative or firm price quotations and actual trade prices in
20 particular may vary significantly from these written estimated
21 values and a result -- as a result of various factors which may
22 include, but are not limited to, a prevailing credit spread,
23 market liquidity, position size, transaction and financing
24 costs, hedging costs, and risks and the use of capital and
25 profit."

1 Q Thank you.

2 I'd like to go back and clarify one thing about the
3 marking of positions by QVT.

4 A Yeah.

5 Q You testified earlier, I believe, that daily marks were
6 updated if information was available?

7 A Yes.

8 Q What -- in general terms what did you mean by that in
9 terms of available information?

10 A With certain instruments there was always a readily
11 available price, so -- equity prices, a lot of pricing
12 information available from the exchanges, certain other OTC
13 securities, trade on a regular enough basis so that those
14 prices are reported or available and so they could be easily
15 collected each day. But other securities, the prices are not
16 transparent in the market, they may be not published, it may be
17 something that you actually have to speak to a dealer
18 explicitly about to get a price. And so there's no public
19 dissemination of that price on a regular basis.

20 Q And so are you familiar with QVT's position with LBSF in
21 PCDS back in 2008?

22 A Yes.

23 Q And was that a position that was marked on a daily basis?

24 A It was not marked on a daily basis, no.

25 Q And are you familiar with the carve position with Lehman?

1 A Yes.

2 Q And was that marked on a daily basis?

3 A No, it was not.

4 Q I'd like to show you another document; it is Defendant's
5 Exhibit 5130.

6 A Can I just add something to the PCDS?

7 Q Sure.

8 A Just to make it super clear, we often used to model
9 certain positions. So certain things like time and interest
10 rates might move on a daily basis which may cause small changes
11 in a value position. But the major inputs like the credit
12 spread, those things that I was about we didn't mark, was
13 talking about those.

14 Q Okay. Thank you.

15 So can you open your book to Exhibit 5130?

16 A Yep.

17 Q Can you identify that document?

18 A This is an e-mail chain. I think working from the back it
19 starts with offer to on the Sunday just before the bankruptcy
20 to myself and Chris Perez. Chris Perez was at the time a risk
21 officer and also included is Nick Brumm and Dan Gold. And
22 Arthur is asking Chris and myself to update our Lehman
23 exposures.

24 Q And in the e-mail that you send to Mr. Chu and
25 Mr. Perez on September 14th you use -- you say this -- "This is

1 the trade date position as of the close of business." I think
2 it's Friday, but it's F-I-R-D-A-Y.

3 A Yeah.

4 Q Is that Friday?

5 A Spell check didn't help me there.

6 Q What's -- what is a trade date position?

7 A So these are the positions as if everything -- as of the
8 trade as of Friday. Some positions may not have settled by
9 then, but their positions are actually on your books and
10 records as of Friday.

11 Q Okay. And what was the purpose for your providing this
12 information to them?

13 A This was something from our systems. Again, this would
14 have some from Tiki and this showed our exposure as of that
15 Friday evening.

16 Q And did you -- are you familiar with the term jump to
17 default exposure?

18 A Yes.

19 Q And does this include jump to default exposure?

20 A No, this is -- again all the numbers, you know, back to
21 that idea of FAS-157 and our valuation policy we were looking
22 at how we would unwind a portfolio, so this is based on that
23 exit price concept.

24 So a jump to default, you know, obviously when something
25 as major as Lehmans going bankrupt it's going to have a big

1 change in the market, so jump to default is a concept that
2 tries to capture that.

3 Q Let me ask you to take a look at one more document; it's
4 Joint Exhibit 37. That's actually an e-mail but it has a
5 native attachment. So maybe you can look at the e-mail first.
6 And if you can identify that for the Court.

7 A So again, it's an e-mail from me. It's in July of 2008
8 and I am sending some information about our current or then
9 current exposures to Lehmans to the managing members, including
10 Chris Perez and Weh Lu (ph). Weh was one of our programmers.

11 Q And when you referred to Lehman in that answer, what
12 entities were you referring to -- entity or entities?

13 A The overall relationship with Lehmans.

14 Q Okay.

15 MR. TRACEY: Can you bring up the attachment, please?

16 BY MR. TRACEY:

17 Q Okay. So the document that's now up on the screen, do you
18 recognize that document?

19 A I do, yes.

20 Q What is it?

21 A So this was the attached document. You can see it's
22 calculated as of close of business July 10th, and it is looking
23 at our total exposure to the various Lehman entities. So you
24 can see just in -- it looks like I didn't completely fill them
25 in -- but in column E is the actual Lehman entity, and column D

1 is the type of relationship.

2 Q And is this in fact the -- if you can recall -- the
3 attachment to the e-mail that's Joint Exhibit 37?

4 A I believe it is.

5 Q And did you prepare this?

6 A I did, yes.

7 Q And toward the bottom of the column on column D there is
8 an entry for JTD exposure. What is that?

9 A I think there's two things here that are important. We
10 had large amounts of CDS exposure -- of CDS protection rather
11 on Lehman Brothers written by other dealers so those would have
12 increased in value had Lehmans gone bankrupt.

13 And then a couple of lines above is something I call cost
14 to replacement pay as you go, and this was to try and capture
15 what it would cost us to -- pay as you go were particularly a
16 liquid portfolio -- and that was there to try and -- correct
17 space in the spreadsheet to see how much it would cost us to
18 replace some of these transactions should Lehmans have gone
19 bankrupt buying and from other counterparties.

20 Q And the column -- or row 15 is limited to pay as you go?

21 A I don't know at the time whether it's just pay as you go
22 or whether it's just for that concept.

23 Q Okay. And going back to 17, I'm not sure I heard an
24 answer to my question. What is JTD exposure?

25 A This is trying -- I think I was asking for Chris or Arthur

1 to estimate what some of the hedges in our portfolio had
2 Lehmans gone bankrupt what that would have made for us.

3 Q And what does JTD stand for?

4 A Jump to default.

5 Q And do you ever recall Arthur or Chris following up with
6 you on what the JTD exposure was?

7 A Not at the time. I think I've reviewed some e-mails as
8 part of the preparation that maybe there was -- it was 2- or
9 300 million, but --

10 Q But do you recall any follow up with you?

11 A No.

12 Q Let me direct your attention to -- actually, before we go
13 there, I want to go back to the side pocket that you referred
14 to earlier.

15 A Uh-huh.

16 Q Were you involved in the valuation of the claims within
17 the side pocket?

18 A Do you mean the original 265 million or --

19 Q Let me rephrase it. When was the side pocket created?

20 A The side pocket was created at the end of September 2008.

21 Q And what was contained within the Lehman side pocket at
22 that time?

23 A That particular side pocket had the claims against the
24 various legal entities -- or we actually thought about it more
25 as product types, but the various claims against the businesses

1 or legal entities that we were in Lehmans, so that was Prime
2 Brokerage, there was -- and then the claim for LBSF.

3 Q And does the side pocket have a net asset valuation every
4 month?

5 A Yes.

6 Q And for September of 2008 do you recall what the net asset
7 value was in that side pocket?

8 A Zero.

9 Q And what was the basis for that?

10 A I had no idea what was the value at that point. We hadn't
11 actually -- we hadn't finished even our own claim for that.

12 Q And did that net asset value change over time?

13 A Yeah, there was two components for -- if we use the LBSF.
14 There was first of all the concept of a notional or a quantity,
15 and that was the number, the overall value of our claim, and
16 that number was fixed each month. It did have one small
17 change. As you know we made a correction to our claims in
18 around 2010, but it started off at approximately 290- or 280-
19 something million and then stayed at that number. We made the
20 adjusted and it's been at 260- or whatever the number is now.
21 So that didn't change, but the valuation of that changed each
22 month.

23 Q And what was the valuation of the notional amount based
24 on?

25 A Again, we were the same principles as we were talking

1 about earlier on, we were trying to get third-party prices from
2 the market and trying to guesstimate or estimate rather what
3 the market would pay for us. So again, back to that definition
4 we were looking to see where we would sell our long position
5 and using third-party inputs.

6 Q And do you recall approximately what percentage of the
7 notional amount was placed on the claim as a valuation of the
8 exit price?

9 A So I think the first couple of months while we were just
10 seeing what was happening in the market we used a price of
11 zero, but by the year end we were using a price of
12 approximately five percent -- or I think five percent actually.

13 Q And since that time has that percentage changed?

14 A Yes. As the market has developed for Lehman's claims more
15 people have been involved, there's been more certainty as
16 events have moved forward, and it's easier to quantify the
17 value of a Lehman's claim now that those market prices have
18 changed.

19 MR. TRACEY: Could we bring up 2108 one more time?

20 BY MR. TRACEY:

21 Q I just have one more subject for you. I've placed in
22 front of you what's been marked as 2108.

23 A Uh-huh.

24 Q Can you identify this sheet that is labeled Response 2?

25 A Can you scroll a little bit more to the left? Yes.

1 Q What is it?

2 A So this was a sheet -- you can see there's a lot of
3 redacted stuff on it -- but this was a sheet that I worked on
4 in I think 2013. There was an effort between ourselves and
5 Lehman's to see if we could try and negotiate a deal on this --
6 or negotiate a value for this position, and this
7 was --

8 MS. SAWYER: Your Honor, I'm just going to object.
9 This seems to be going into an area of post hoc analysis, and
10 it was done after October 2008.

11 THE COURT: I'm not --

12 MS. SAWYER: And potentially settlement discussions
13 between Lehman and QVT.

14 THE COURT: I'm not sure.

15 MR. TRACEY: I have no intention of getting into
16 that.

17 THE COURT: I don't think that was the intention.

18 So, Mr. Sale, you know that anything having to do
19 with mediation and settlement discussions should not be
20 disclosed.

21 THE WITNESS: Yes.

22 THE COURT: So right now the question simply is what
23 this is. So --

24 MS. SAWYER: Right. And in his answer, he was saying
25 this is -- referring to the negotiations back and forth between

1 Lehman and QVT.

2 THE COURT: Well we know those occurred.

3 MS. SAWYER: Understood.

4 THE COURT: Okay? So let's just take it a step at a
5 time.

6 MS. SAWYER: Okay.

7 THE COURT: Okay?

8 MR. TRACEY: Okay.

9 BY MR. TRACEY:

10 Q So without disclosing anything about the mediation or
11 discussions with Lehman, I simply want to know what this
12 document is and what content it has?

13 A This was -- we were provided a portfolio and valuations by
14 Lehman's as part of that and this was a reconciliation between
15 the way we represented the claim on a line by line level and
16 then trying to reconcile those against Lehman's positions.

17 Q Okay.

18 MS. SAWYER: Your Honor, to the extent that's what
19 that is then this is a document that should be protected under
20 408.

21 MR. TRACEY: Well we already went through this. We -
22 - there were -- there was some information on here that was
23 received from Lehman and we redacted that, and there was some
24 information that was prepared by QVT and we've retained that.
25 So we've already dealt with this issue.

1 THE COURT: Maybe I'm confused, but I thought that we
2 had days ago figured this out. So --

3 MS. SAWYER: I thought we had, too. It's a little
4 unclear based upon the (indiscernible) testimony as to what he
5 believed this is and whether we have redacted sufficient
6 information or not.

7 THE COURT: Maybe this would be a good point to take
8 a break --

9 MR. TRACEY: Sure.

10 THE COURT: -- and we could try to hash this out.

11 MR. TRACEY: Okay.

12 THE COURT: All right? So, Mr. Sale, during the
13 break you remain under oath. Please do not discuss your
14 testimony or the case with anyone or be in anyone's presence
15 while they're doing the same.

16 Why don't we try to come back in 15 minutes, but
17 we'll start with -- why don't you come up and try to figure
18 this out?

19 (Recess 2:48 p.m. until 3:07 p.m.)

20 THE CLERK: All rise.

21 THE COURT: All right. Mr. Sales.

22 We have the windows completely shut now, but if it
23 gets too warm, you're welcome to take your jackets off or
24 otherwise try to become cooler. Cooler than you already are.
25 Go ahead.

1 MR. TRACEY: Thank you, Your Honor.

2 DIRECT EXAMINATION (RESUMED)

3 BY MR. TRACEY:

4 Q I'd like to finish up with just a couple more questions on
5 the net asset values of the side pocket.

6 A Okay.

7 Q I think you testified earlier that there are two
8 components to the valuation of the side pocket, right?

9 A Yes.

10 Q And one of them is the notional amount of the claim --

11 A Yes.

12 Q -- against Lehman; is that correct?

13 A That's right, yes.

14 Q And the other is a discount factor?

15 A A price.

16 Q A price.

17 A Yeah.

18 Q And would you just explain to the Court how that price is
19 determined?

20 A So over time, the methods we used over time changed
21 depending on the amounts of information that was in the market.
22 But prices started to develop for agreed claims where other
23 market participants would buy those agreed claims off other
24 people, monetize their position, and then that bank or dealer
25 would hold the position.

1 So we had that information that was available to us, but
2 we didn't have an agreed claim. And so what we tried to do was
3 to use that as an input into a model where we tried to adjust
4 or try and understand how a third party might take our claim as
5 is and what type of discount would they want against an agreed
6 claim to purchase that position from QVT.

7 Q And was that valuation process reviewed by your auditors
8 at the end of the year?

9 A Yes. The auditors reviewed it monthly. It was reviewed
10 by Citco because they produced the NAV on an annual basis that
11 was part of the diligence that PWC did. It was obviously an
12 important part of our portfolio so they diligenced that
13 valuation. And we also used a third-party valuation later in -
14 - not around this period, but later but in about 2011, Duff &
15 Phelps, and they also diligenced
16 the -- our methods.

17 Q And did you receive an opinion on your financial
18 statements for 2008 from PricewaterhouseCooper?

19 A We did, yes.

20 Q And what was that opinion?

21 A It was an unqualified opinion.

22 Q And since then have you received opinions on your
23 financial statements?

24 A Yes.

25 Q And what have those opinions been?

1 A Again, all unqualified.

2 MR. TRACEY: I have nothing further. Thank you.

3 THE COURT: Thank you.

4 MS. SAWYER: It'll just take me a moment, Your Honor.

5 THE COURT: Yeah.

6 (Pause)

7 THE COURT: Thank you.

8 THE WITNESS: Thank you.

9 THE COURT: Why don't you take the white binder away
10 just to --

11 THE WITNESS: I'm not going to need this?

12 THE COURT: -- make it a little roomier.

13 THE WITNESS: All right. Okay.

14 THE COURT: You have water there, Mr. Sale?

15 THE WITNESS: I do. Thank you, yes.

16 THE COURT: Okay. Go ahead.

17 CROSS-EXAMINATION

18 BY MS. SAWYER:

19 Q In the week prior to Lehman's bankruptcy, QVT was
20 concerned about Lehman. Is that fair?

21 A That's true, yes.

22 Q And QVT wanted to make sure that it was on top of all the
23 payments that should have gone back and forth between QVT and
24 Lehman, right?

25 A Yes.

1 Q And one area that QVT was particularly focused on in the
2 weeks before Lehman's bankruptcy was margin, right?

3 A Yes.

4 Q For example, if QVT made a margin call on Lehman, QVT
5 wanted to make sure it actually received those monies from
6 Lehman, right?

7 A Yes.

8 Q Now it was important for QVT to make sure that it was
9 getting the appropriate amount of collateral from Lehman
10 especially as Lehman was becoming more unstable, right?

11 A Correct, yes.

12 Q Because collateral is an important protection for QVT,
13 right?

14 A Yes.

15 Q And one of the things that you did, I believe you
16 testified on direct, was tried to get back the initial margin
17 that QVT had posted to LBSF, right?

18 A Yes.

19 Q And the initial margin had been posted pursuant to the
20 ISDA master agreements between LBSF and QVT and Quintessence,
21 correct?

22 A Yes.

23 Q And as we looked at it it was about \$18.6 million at the
24 time of bankruptcy, right?

25 A Uh-huh.

1 Q I'd like you to look at 5116 in your binder.

2 A Okay.

3 Q This is an e-mail from you to Ms. Fang copying Mr. Brumm
4 on September 11th, 2008. Do you see that?

5 A Yes.

6 Q And the re: line is LEH margin, right?

7 A Subject line, yes, yeah.

8 Q And Ms. Fang was responsible for determining margin and
9 making margin calls at QVT in September of 2008, wasn't she?

10 A She was the person responsible for the margin, yes. The
11 systems would do a lot of the calculations, but once the
12 calculation was done by the system then she would be involved,
13 in that she's moving the margin back and forth or reconciling
14 the margin and then moving it back and forth, yes.

15 Q And she was the primary person at QVT's operations
16 department responsible for coordinating margin between QVT and
17 the banks, correct?

18 A Yes.

19 Q And in Defendant's Exhibit 5116 you tell Ms. Fang, "Please
20 make sure that you prioritize any Lehman margin calls." Do you
21 see that?

22 A Yes.

23 Q And you also tell her that if she has even the slightest
24 concern she could speak to Nick straight away, right?

25 A Yes.

1 Q And that reference to Nick is a reference to Mr. Brumm,
2 right?

3 A Correct.

4 Q And you conclude your e-mail to Ms. Fang by saying, "Can
5 you send us a note when you get calls and when they are paid?"
6 Do you see that?

7 A Yeah.

8 Q And because QVT wanted to make sure that it was making
9 whatever margin calls it could on LBSF the week before Lehman's
10 bankruptcy, right?

11 A Yes.

12 Q And QVT wanted to track when it received the payments from
13 Lehman or LBSF in connection with those margin calls, right?

14 A Uh-huh.

15 Q And this is -- is that a yes?

16 A Sorry, yes. Sorry.

17 Q This is consistent with what we just talked about, that a
18 margin at QVT was a priority during the week before Lehman's
19 bankruptcy, right?

20 A Yes.

21 Q I'd like to look at Joint Exhibit 45, which is in the
22 front of your binder.

23 A Okay.

24 Q And you looked at this document on direct with
25 Mr. Tracey. Do you recall that?

1 A Yes.

2 Q And you said that you didn't remember sending this
3 e-mail, correct?

4 A I didn't.

5 Q But you don't have any doubt that you sent the e-mail do
6 you?

7 A I don't, no.

8 Q And you do confirm that you were trying to return -- get
9 the return of the initial margin, correct?

10 A (Indiscernible), yes.

11 Q And this is specifically trying to get the initial margin
12 back from LBSF, correct?

13 A Yeah. I don't think it -- we had a number of
14 relationships, but I think yes, I think this is LBSF.

15 Q I'd like to look at Defendant's Exhibit 5114. Are you
16 there?

17 A I am, yes.

18 Q And this is an e-mail chain among you, Ms. Fang,
19 Mr. Metter (ph), and Mr. Brumm on September 11th, 2008. Do you
20 see that?

21 A Yes.

22 Q And starting at the bottom e-mail Ms. Fang writes to you,
23 "LBSF is call QVT for 710K today." Do you see that?

24 A Yep.

25 Q Meaning that LBSF was making a margin call on QVT on

1 Thursday, September 11th, 2008, right?

2 A From the rest it's ambiguous. It could say is on call or
3 is calling. It's --

4 Q But the next e-mail she's --

5 A -- but the next if you read up --

6 Q Sorry.

7 A I'm sorry. It's -- that one sentence by itself is
8 ambiguous. But I think if you read up I think the inference is
9 that Lehman's is calling for 700,000.

10 Q Because in the next e-mail up at 2:45 Ms. Fang says,
11 "Should I pay the call or hold off?" Right?

12 A Yes.

13 Q And going back down to the bottom e-mail Ms. Fang says, "I
14 heard from Adam -- I heard Adam said you were trying to pull
15 back some margin from them. Any update yet?"

16 A Yes.

17 Q And that's referring to whether there was any update on
18 whether you were going to get the initial margin back from
19 LBSF, correct?

20 A I'm guessing so, yes.

21 Q Okay. And LBSF never did agree to return to initial
22 margin to QVT did it?

23 A It did not.

24 Q I'd like you to look at Joint Exhibit 47. Are you there?

25 A Yes.

1 Q Okay. This is an e-mail chain among you, Mr. Brumm, and
2 Ms. Fang on Friday September 12th, 2008. Do you see that?

3 A Yeah.

4 Q And in the bottom e-mail to you Mr. Brumm, Ms. Fang
5 states, "The data show we can call LBSF today for plus 8.MM QVT
6 and plus 870K Quint." Do you see that?

7 A Yes.

8 Q And Ms. Fang was sending this e-mail to you and Mr. Brumm
9 because you guys were keeping your eyes on the collateral
10 situation with LBSF, right?

11 A Yes.

12 Q And Mr. Brumm asks in response, "Does this reflect any
13 decrease in initial margin?" Right?

14 A Yes.

15 Q And Ms. Fang responds by says, "There's no change in IM."
16 Meaning there'd been no change or decrease in the initial
17 margin, right?

18 A I'm guessing so, yes.

19 Q And so on the top Mr. Brumm told Ms. Fang to make the call
20 right away on LBSF, right?

21 A Uh-huh.

22 Q And this is the Friday before bankruptcy, correct?

23 A Yep.

24 Q And so Mr. Brumm is telling Ms. Fang to make the margin
25 call of about \$9 million on LBSF as soon as possible, right?

1 A That's what it looks like it says, yes.

2 Q There was some sense of urgency to get this call out,
3 right?

4 A Yes.

5 Q QVT wanted to make sure as things became more unstable
6 that it had all the margin it could have, correct?

7 A Yes.

8 Q And Ms. Fang did in fact promptly send out this margin
9 call didn't she?

10 A I don't know. I don't know.

11 Q So let's look at Defendant's Exhibit 5008.

12 A Okay.

13 Q And if you look at the bottom e-mail at 10:51 a.m., you
14 see Ms. Fang to Ms. Blonco (ph). Are you there? I'm sorry,
15 sir.

16 A I am, yeah. What was the previous one, sorry?

17 Q The previous one was I believe 47.

18 A Okay. Yeah.

19 Q So Ms. Fang sent out this e-mail to Ms. Blonco at LBSF a
20 minute after Mr. Brumm told her to do so, correct?

21 A Yep.

22 Q And Ms. Fang's e-mail to -- well, let me back up. You
23 know that Patricia Blonco is the LBSF margin counterparty to
24 Ms. Fang?

25 A I think she was the opposite, yeah.

1 Q Right.

2 A Her opposite rather.

3 Q And this margin call made by Ms. Fang in Defendant's
4 Exhibit 5008, this isn't an attempt to recover any initial
5 margin that QVT had posted to LBSF is it?

6 A Not if you follow the chain from before, no. It just
7 looks like this is a mark-to-market.

8 Q Right. And in response to QVT's margin call on September
9 12th, 2008 LBSF says that they can agree to the Quint call and
10 they suggest a lower number for the QVT call. Do you see that?

11 A Yes.

12 Q And in response at the top Ms. Fang agrees to LBSF's
13 proposal and asks LBSF to please send in the call, right?

14 A Yes.

15 Q And so in this Defendant's Exhibit 5008 on
16 September 12th, 2008, QVT and LBSF had agreed upon a margin
17 call to be paid by LBSF to QVT, right?

18 A Yes.

19 Q And LBSF did, in fact, pay that margin call on
20 September 12th, 2008 didn't it?

21 A I believe they did, yes.

22 Q I'd like you to look at Defendant's Exhibit 5130. And if
23 you'd go to the second page of this document, the one that's
24 landscape oriented. You had looked at this with
25 Mr. Tracey as well.

1 A Yes.

2 Q Do you recall that?

3 A Yep.

4 Q And this is that e-mail chain where Mr. Chu asks you and
5 Mr. Perez to update exposures to Lehman, right?

6 A Yes.

7 Q And you provide the table, which is the trade date
8 position as of the close of Friday, right?

9 A Uh-huh, yep.

10 Q And that's a table you created, right?

11 A Yes, I did.

12 Q And you pulled the information from that table from the
13 Tiki system?

14 A From Tiki, yes.

15 Q And I believe you described Tiki as QVT's books and
16 records, right?

17 A Yes. They weren't our official books and records; that
18 was the administrator. But this was our books and
19 records -- our (indiscernible) books and records.

20 Q And among other things, this table shows that the
21 mid-market value of the derivatives positions between QVT and
22 LBSF is about 116.9 million doesn't it?

23 A Yep.

24 Q And that precise amount is seen in the row LBSF in the
25 column sum of TD derivative value, right?

1 A That's right, yes.

2 Q And the next row down says LBSF margin, right?

3 A Yep.

4 Q And that reflects the amount of collateral that Lehman had
5 posted to QVT in connection with those same derivatives
6 transactions as of the close of business on Friday, September
7 12th, right?

8 A Yes.

9 Q And so, as of the time that you generated this trade, this
10 trade report, this table, QVT had slightly more collateral --
11 held slightly more collateral than the mid-market value of the
12 transactions, right?

13 A Yes, the mid-market value as we've spoken about, yes.

14 Q And you don't recall, when you sent this e-mail in
15 Defendant's Exhibit 5130, anybody objecting to your analysis to
16 point out that the value of the derivatives transactions was
17 inaccurate, did you?

18 A No one told me that the valuations that we were using as
19 of Friday night were inaccurate, no.

20 Q Okay. It would have been important for --

21 COURT REPORTER: (Indiscernible).

22 THE WITNESS: Friday night.

23 BY MS. SAWYER:

24 Q It would have been important for QVT to know if the
25 valuations of its derivatives transactions were inaccurate as

1 it was assessing its exposure to Lehman this weekend, correct?

2 A Yes.

3 Q I'd like to look at Joint Exhibit 37, which Mr. Tracey
4 showed to you. It's actually not in the binder, but it's a
5 native document, so you can just look at it on the screen.

6 A Okay.

7 Q So this is that July 2008 exposure. And so, if we could
8 look at the native attachment. Do you recall this document?

9 A Yes.

10 Q And Mr. Tracey directed your attention to row 17 of this
11 document where it says "JTD Exposure". Do you see that?

12 A Yes.

13 MS. SAWYER: And if you could shrink the picture a
14 little bit so we can see.

15 BY MS. SAWYER:

16 Q And you write over in the comment column, "Arthur, Chris
17 to check." Do you see that?

18 A Yes.

19 Q And you were asking Arthur or Chris to quantify the value
20 -- the amount of the JDT exposure, right?

21 A Yes.

22 Q And you said you recall that they calculated something in
23 the 200- to \$300 million range, right?

24 A From other e-mails. I don't know if it was directly off
25 this one, but from other e-mails that I reviewed.

1 Q And you also testified on direct that QVT had bought a
2 large amount of CDS protection on Lehman, right?

3 A Yes.

4 Q And that protection would cover the joint -- jump to
5 default exposure that we're talking about, right?

6 A No. I think that was -- that was what I was talking
7 about. That was the jump to default. That was the value of
8 that portfolio if Lehmans failed.

9 Q Right. But the CDS that Lehman -- I'm sorry -- that QVT
10 purchased on Lehman would cover that jump to default exposure,
11 correct?

12 A No. The jump to default was that. If we had CDS
13 exposure, we had CDS positions. If Lehmans failed, those would
14 jump in value> And so that -- what I was trying to suggest
15 there was that was the value of that CDS portfolio of other
16 parties.

17 Q Okay. But you had testified on direct that setting aside
18 the CDS transactions between QVT and LBSF, that QVT had
19 additional purchased CDS protection on Lehman, correct?

20 A Yes.

21 Q And a significant amount of that, correct?

22 A Yes.

23 THE COURT: Mr. Tracey, yes?

24 MR. TRACEY: I have an objection, Your Honor, on
25 relevance grounds. We made a motion in limine to address the

1 question of whether there is any relevance to independent non-
2 LBSF positions offsetting the LBSF positions and I --

3 MR. TAMBE: Can we approach, please?

4 THE COURT: Sure.

5 (Sidebar conference off the record)

6 THE COURT: We're just going to take a few minutes to
7 try to resolve this in a way that's a little more conducive.
8 All right? So you can get up and walk around, Mr. Sale.

9 (Off the record)

10 MS. SAWYER: You ready?

11 THE COURT: Yep.

12 BY MS. SAWYER:

13 Q You talked about that you pulled information from
14 Tiki and that's what you colloquially refer to as books and
15 records, right?

16 A Yes.

17 Q And Tiki is a system that QVT built itself, right?

18 A Yes.

19 Q And you also talked about daily P&L that was calculated,
20 QVT, and that was done on a daily basis using Tiki as well,
21 right?

22 A Yes. Yes.

23 Q And you indicated that QVT tried to go through and ascribe
24 a value to every single position in Tiki on a daily basis,
25 right?

1 A Yes.

2 Q But that there were certain positions, I think you said
3 PCDS and Carb that weren't updated daily, right?

4 A Yes.

5 Q But there was nothing that precluded them from being
6 updated daily was there?

7 A If you -- if we could have got prices from the market then
8 we could have updated them.

9 SHEILA

10 Q Or if you'd had information from the market you could have
11 updated that in Tiki as well, correct?

12 A Yes.

13 Q And you also testified about a model for PCDS that would
14 look at things like interest rates and things like that and so
15 there might be variations from day to day, correct?

16 A Uh-huh.

17 Q And so you could've changed the inputs into that PCDS
18 model, correct, to update the values?

19 A If we could have gotten market inputs for it, yes. If we
20 got market inputs, this is exactly the same concept, if market
21 inputs were available, so if someone wanted to express a PCS
22 price as an absolute price or as a spread, if it gave it a
23 spread, we actually had to model that against our particular
24 instruments.

25 Q All right. And you said -- but PCS and Carb were also

1 though marked at the end of the month, correct?

2 A Yes.

3 Q And that was a more intensive process done at month end,
4 right?

5 A That's right, yes.

6 Q And you testified that it was reviewed by Citco because it
7 was for NAV reporting purposes, right?

8 A Yes.

9 Q And so both PCDS and Carb had been marked as of August
10 31st, 2008, right?

11 A The month end, yeah, if it was a weekend, but yes, month
12 end.

13 Q And month end August, that was reviewed by Citco, right?

14 A Yes.

15 Q And Citco signed off on it, correct?

16 A Yes.

17 Q And those month end August financials had not been
18 restated, have they?

19 A They have not, no.

20 Q And those month end financials for August 2008, those were
21 done in compliance with GAAP and FAS 157, right?

22 A Yes.

23 Q And the daily P&L information that was available in Tiki,
24 that was used for purposes of the estimated performance reports
25 that Mr. Gold sent to the QVT investors, right?

1 A Yes.

2 Q And Tiki's the only possible source for that information
3 at QVT, right?

4 A Yes.

5 Q And QVT regularly sent estimated performance reports to
6 its investors, right?

7 A We would, in normal times, we we resending -- we would
8 send a mid-month, so we would send one each month; at other
9 times we might send, I think during post-Lehman we would send
10 it on a more regular basis.

11 Q So in the time of September 2008, they were coming out
12 more than twice a month, right?

13 A When we started that, it was about that time. I can't
14 remember exactly when.

15 Q And Mr. Gold himself wrote a lot of the investor updates
16 that QVT would send to its investors, right?

17 A He did, yes.

18 Q But the other managing members would review the investor
19 updates before they went out to the investors.

20 A I guess I'd say yes.

21 Q And care was taken to ensure that everything reported to
22 QVT's investors in these updates was a hundred percent
23 accurate, right?

24 A As best as we could, yes.

25 Q I'd like you to look at Defendant's Exhibit 5464. Are you

1 there?

2 A I am, yes.

3 Q And this is one of the investor updates that was sent to
4 QVT's investors on September 11th, 2008, right?

5 A Yes.

6 Q And the first section of this September 11 investor update
7 is entitled "estimated returns of feeder funds," do you see
8 that?

9 A Yes.

10 Q And that section details the estimated returns of the
11 funds through the period of September 1st, 2008 to September
12 10th, 2008, right?

13 A Yeah.

14 Q And that information came -- would have come from QVT's
15 Tiki system, correct?

16 A Yep.

17 Q And QVT believed these estimated returns were accurate as
18 of September 11th, 2008 when they sent them to QVT's investors,
19 right?

20 A To the best that we could do at the time, yes.

21 Q I'd like you to look at Defendant's Exhibit 5465, which I
22 think is the next one in your binder.

23 And this is an update that was sent to QVT's investors on
24 Sunday evening, September 14th, 2008, do you see that?

25 A I do.

1 Q So just three days after the last investor update that we
2 saw, right?

3 A Uh-huh.

4 Q And -- is that a yes?

5 A Oh, yes, sorry, yes.

6 Q And that's consistent with what you said that around the
7 time of the Lehman bankruptcy the investor updates became more
8 frequent, correct?

9 A Yeah. I don't know if this is the one -- there was --
10 during that period, yes, we got more frequent.

11 Q And this also has the same first section called estimated
12 returns of feeder funds, do you see that?

13 A I do, yeah.

14 Q And this section details in this Defendant's Exhibit 5465
15 estimates the returns for the period of September 1st, 2008 to
16 and including September 12th, 2008. Do you see that?

17 A Uh-huh.

18 Q Is that a yes?

19 A Oh, yes, sorry.

20 Q And that information would've also come from QVT's Tiki
21 system, right?

22 A Yes.

23 Q And QVT believed that these estimated returns being
24 reported to its investors in September 14, 2008 was accurate,
25 correct?

1 A Yes.

2 Q I'd like you to look at Defendant's Exhibit 5204.

3 A Yep.

4 Q And this is an update to QVT's investors that was sent on
5 September 23rd, 2008, correct?

6 A Yes.

7 Q And the first section of this September 23rd investor
8 update which is Defendant's Exhibit 5204 is also entitled
9 "estimated returns of feeder funds." Do you see that?

10 A Yes.

11 Q And this section on the September 23rd investor update
12 provides the estimated returns for the period September 1st,
13 2008 to and including September 22nd, 2008, right?

14 A Yes.

15 Q And just like the other investor updates, this information
16 would've come from QVT's Tiki system, right?

17 A Yes.

18 Q And QVT believed that these estimated returns being
19 communicated to its investors on September 23rd, 2008 were
20 accurate, right?

21 A Yes.

22 Q And if you go down on this document, just below the middle
23 of the page, you see a heading that says "update on
24 (indiscernible) party exposure." Do you see where that is?

25 A Yes.

1 Q And I'm actually going to back you up to look at the
2 sentence right before it, that says "these estimates take into
3 account." Do you see where I'm at?

4 A Uh-huh. I'm sorry, yes. I'll get that right once.

5 Q Ready?

6 A Yes.

7 Q "These estimates take into account all losses due to
8 Lehman Brothers but assign no value to any claims the funds
9 expect to receive in the bankruptcy proceedings." Do you see
10 that?

11 A Yes.

12 Q And that's true, that the estimated returns reported in
13 Defendant's Exhibit 5204 took into account all losses due to
14 the Lehman Brothers bankruptcy, right?

15 A Yes.

16 Q And for that LBSF portion of those losses, QVT had lost a
17 bunch of transactions that had some value, but they also got
18 some collateral, correct?

19 A Yes.

20 Q If you go down to the bottom of this page in Defendant's
21 Exhibit 5204, about five lines up from the bottom it has a
22 sentence that starts "to put this in context." Do you see
23 where I'm at?

24 A I do, yes.

25 Q And so Mr. Gold advised QVT's investors on Tuesday,

1 September 23rd, 2008 and he says "to put this in context, at
2 the time of Lehman Brothers' failure, the QVT funds had no net
3 exposure in the sense that they owned CDS on Lehman large
4 enough to offset the loss of initial margin and derivatives
5 contract, equity and prime brokerage and repo, and any other
6 credit exposures to Lehman." Do you see that?

7 A Yes.

8 Q And that was true in September of 2008 that QVT owned
9 enough CDS on Lehman to offset the losses that QVT experienced
10 as these losses that QVT experienced as a result of Lehman's
11 bankruptcy, right?

12 A That's what it says there, yes.

13 Q And that's what Mr. Gold told the investors on September
14 23rd, right?

15 A That's what's written there, yes.

16 Q And if you go to the next page right before the heading
17 that says Morgan Stanley and Goldman Sachs --

18 A Uh-huh. Yes.

19 Q -- the sentence right before that it says "I
20 believe" -- Mr. Gold tells the investors, "I believe that a
21 majority of our month to date losses would have been sustained
22 even if the QVT funds had had no direct relationship with
23 Lehman simply because of the market conditions unleashed by
24 Lehman's value." Do you see that?

25 A Yes.

1 Q And that was true that QVT's losses to date in September
2 2008 would have happened even if QVT had had no direct
3 relationship with Lehman, right?

4 A That's what it says there, yes.

5 Q That's what Mr. Gold told the investors on September 23rd,
6 2008, right?

7 A Yep.

8 Q You talked with --
9 Oh, I don't think you answered verbally.

10 A Oh, sorry, yes.

11 Q Or the court reporter didn't pick it up.
12 You talked with Mr. Tracey about QVT's annual financial
13 statements.

14 A Yes.

15 Q And in 2008 and in 2009, QVT's auditor who looked at the
16 financial statements was Pricewaterhousecoopers, right?

17 A Correct.

18 Q And you were also involved in the preparation of the
19 annual financial statements, right?

20 A Yes.

21 Q And the managing members would review them before they
22 were sent to the investors too, correct?

23 A Yes.

24 Q And care was taken at QVT to ensure that the disclosures
25 and its annual financial statements were accurate, right?

1 A Correct.

2 Q And I believe you testified that those financial
3 statements were distributed to QVT's investors, correct?

4 A Yes.

5 Q I'd like you to look at Defendant's Exhibit 2554.

6 A Okay.

7 Q Are you there?

8 A Yes.

9 Q And this is the consolidated financial statements of QVT
10 fund LP on -- dated December 31st, 2008, right?

11 A Yes.

12 Q And if you could turn to page -- and you signed off on
13 this particular financial statement before it was sent to QVT's
14 investors, right?

15 A Yes.

16 Q If you could turn to page 51. Do you see there's a
17 heading that says exposure to Lehman Brothers?

18 A Yes.

19 Q And if you could go to the second sentence under that
20 heading it says "at the time of Lehman's filings, the fund did
21 not have significant direct net exposure to Lehman as the fund
22 held credit default swap positions on Lehman large enough to
23 offset the majority of the loss of initial margin and
24 derivatives contracts, equity and prime brokerage, and margin
25 and repurchase agreements." Do you see that?

1 THE COURT: Yes, Mr. Tracey?

2 MR. TRACEY: I'm sorry, I have a continuing objection
3 to this. This is the same line that we started to go down
4 earlier, I objected to it. And the fact that there were --
5 well, I don't want to repeat it, but I'll approach and repeat
6 it if the Court would like that.

7 THE COURT: Hold on one second.

8 So, Ms. Sawyer, are you going somewhere other than
9 what we had discussed when we talked about this about a half an
10 hour ago?

11 MS. SAWYER: No.

12 THE COURT: You can come on up.

13 (Sidebar conference off the record)

14 THE COURT: Go ahead, Ms. Sawyer.

15 BY MS. SAWYER:

16 Q So I had just read to you a sentence out of Defendant's
17 Exhibit 5254, do you recall that?

18 A This was the financial stuff, yes.

19 Q Right. And that sentence that I read to you about the
20 credit default swap positions that QVT held on Lehman Brothers,
21 do -- that was accurate at the time it was disclosed to QVT's
22 investors, correct?

23 A We certainly believed it at the time, yes.

24 Q And if you could -- looking at the next two sentences in
25 that same section "exposure to Lehman Brothers," starting with

1 the sentence that says "prior to the Lehman bankruptcy," do you
2 see that?

3 A Yes.

4 Q It says "prior to the Lehman bankruptcy, the funds had
5 entered into derivatives positions with Lehman. The net value
6 of these derivatives contracts increased substantially
7 following Lehman's failure as credit spreads widened." Do you
8 see that?

9 A Yes.

10 Q And that was an accurate statement made by QVT in its 2008
11 financial statements, that the value of QVT's derivatives
12 contracts with Lehman increased in value following Lehman's
13 failure, right?

14 A Yes.

15 Q And continuing on in that section, the next sentence says
16 "even though --" sorry. "Even though at the time of Lehman's
17 failure the fund held collateral from Lehman in amounts close
18 to the positive mark to market value of derivatives positions,
19 valued as of the business date preceding Lehman's filing for
20 bankruptcy (less required initial margin), the fund did not
21 have sufficient collateral to cover the replacement costs, and
22 the mark to market gains in respect to such derivative
23 positions resulting from their rapid increase in value
24 following Lehman's value." Do you see that?

25 A I do, yes.

1 Q And it was accurate as QVT disclosed, that QVT did hold
2 collateral from Lehman in amounts close to the mark to market
3 value of the derivatives positions valued prior to Lehman's
4 bankruptcy, right?

5 A It's -- what you're saying there is if you are using a
6 marking value or a process of marking to the exit price on
7 9/12, then the amounts of collateral that we held was very
8 similar to the exit price on 9/12.

9 Q So if you're looking at the mark to market value of the
10 transactions as of 9/12, the collateral that QVT held in
11 connection with those transactions was approximately the same,
12 correct?

13 A If you define mark to market as the exit via the
14 portfolio, yes.

15 Q Well, you referred to mark to market value in these
16 financial statements, correct?

17 A Yes.

18 Q And that's what you told the investors, correct?

19 A Yes.

20 Q And -- but QVT believed, continuing that sentence "that it
21 didn't have sufficient collateral to cover replacement costs
22 and mark to market movements following Lehman's bankruptcy,"
23 right?

24 A Yes.

25 Q And these mark to market movements referenced in QVT's

1 financial statements happened after September 15th, correct?

2 A No.

3 Q Well, we saw earlier as of the close of business on
4 September 15th, 2008, Mr. Tracey put up a spreadsheet that the
5 mark to market movement in QVT's books and records was actually
6 move in Lehman's favor, correct?

7 A If -- what we're stating there, you know, on the
8 methodology that we were using, we weren't really valuing the
9 portfolio on 9/15, I don't think it's fair to say that a
10 portfolio that had so much protection would have actually gone
11 \$5 million against us.

12 I think if we look to that spreadsheet, a lot of positions
13 weren't marked that night. We didn't attempt to mark the
14 portfolio on 9/15. And if we had, it would've still been at an
15 exit price, not an entry price.

16 Q But when we looked at the spreadsheet, which I believe was
17 2111 -- thank you, Claimant's Exhibit 2111 --

18 A Yeah.

19 Q -- do you remember you added up the prices on 9/12 --

20 A Yes.

21 Q -- you added up the mark to market values on 9/15 and
22 QVT's Tiki system showed a \$5 million move in Lehman's favor
23 between those days, correct?

24 A That's what was in the system, yes.

25 THE COURT: Yes, Mr. Tracey?

1 MR. TRACEY: I'm sorry to interrupt. I don't really
2 mean to interrupt but there was a typo in the answer to the
3 last question. The last -- the transcript says we did attempt
4 to mark the portfolio on 9/15, and in fact, the witness said we
5 did not.

6 THE COURT: That's true. All right.

7 THE WITNESS: Yes, that's what I said.

8 THE COURT: Has the correction been made?

9 THE REPORTER: Yes.

10 THE COURT: Okay. Thank you. Okay.

11 BY MS. SAWYER:

12 Q And so looking at QVT's books and records, the mark to
13 market movement happened after September 15th, 2008, correct?

14 MR. TRACEY: Objection, Your Honor, I don't know what
15 mark to market movement we're talking about right now.

16 THE COURT: Fair enough.

17 Q The mark to market movement that's referred to in the
18 disclosures to the QVT investors, the mark to market movement
19 that happened, following Lehman's failure, that mark to market
20 movement happened after September 15th, correct?

21 A We never tried to value the -- Lehman's portfolio from
22 about 9/15 onwards, and so there were timing changes in that
23 portfolio, but I don't think it's fair to say that books and
24 records were showing -- if you just look the pure numbers, but
25 we made no attempt to value that portfolio in any --

1 Q Sorry, go ahead.

2 A -- in any correct way.

3 Q But you made a disclosure, QVT made a disclosure on
4 September 23rd to its investors, based upon his Tiki records
5 for the values through September 22nd, correct?

6 A Uh-huh.

7 Q And so it's your testimony that QVT made no effort to make
8 sure that it's Tiki system was accurate before it went out with
9 that report to its investors?

10 A No. I think what I'm trying to say is we made no attempt
11 to try and value the portfolio. These were now claims on the
12 estates, we made no attempt to try and value those positions.

13 Q But there were values for those positions in the Tiki
14 system, correct?

15 A Yes.

16 Q And I just want to -- we're both fast talkers, so I have
17 to make sure we take turns.

18 A Okay.

19 Q But there were values for all those positions in the Tiki
20 system, correct?

21 A There were, yes.

22 Q And there were values for those positions in the Tiki
23 system through the week of Lehman's bankruptcy, correct?

24 A There were values in the system, yes.

25 Q And those values in the Tiki system, those were used for

1 the report that was sent to the investors on September 23rd,
2 2008, correct?

3 A On the 23rd, I think the only -- I don't know. Because
4 those positions were taken out of the portfolio I think later
5 in that week, but I think all we were trying to say there is
6 that we had a portfolio that was worth a certain amount on 9/12
7 and we had collateral, which -- so.

8 Q That's not what was reported to the investors on September
9 23rd, 2008, was it?

10 MR. TRACEY: I'm sorry.

11 THE COURT: Mr. Tracey, yes.

12 MR. TRACEY: I think counsel interrupted the witness.
13 He was right in the middle of a sentence. I
14 just --

15 THE COURT: Let's try to slow down just a little bit.

16 MS. SAWYER: I apologize.

17 THE COURT: All right. So if you could go back to
18 the pending question.

19 BY MS. SAWYER:

20 Q The pending question was that's not what was reported to
21 the investors on September 23rd, 2008, was it?

22 A We provided an estimate of what we thought, an estimate of
23 the value of the portfolio and the NAV calculation on the 23rd,
24 yes.

25 Q And that estimate that was provided to the investors on

1 September 23rd, that was through September 22nd, correct?

2 A I don't have it in front of me, but yes.

3 Q And you testified earlier that that information came from
4 the Tiki system, right?

5 A Yes.

6 Q If you could turn to the next page of Defendant's Exhibit
7 5254. It's the next paragraph in the section, "exposure to
8 Lehman Brothers" on the top of page 52. Do you see where I'm
9 at? It starts --

10 A The fund --

11 Q -- "the fund has exercised its rights"?

12 A Yes.

13 THE COURT: Can I try to get some clarification on
14 the last line of questioning? So a report went out to the
15 investors on the 23rd of September, right?

16 THE WITNESS: Yes.

17 THE COURT: And I think what you've said in response
18 to Ms. Sawyer's question is that the numbers that were reported
19 to the investors were based on what was in Tiki as of that
20 date.

21 THE WITNESS: Yes.

22 THE COURT: And that there had been no attempt to
23 place a value on the claim or the exposures, or the positions,
24 prior to that?

25 THE WITNESS: At that point onwards -- so a lot of

1 positions and we've done this in months prior to September, a
2 lot of positions we only marked on a monthly basis because
3 there wasn't good information in the month or the process was
4 onerous to get the information.

5 THE COURT: Okay.

6 THE WITNESS: So we had priced the CDS -- the PCDS
7 portfolio, Carb and a bunch of other positions on the month
8 end, and we persisted that price through September and pretty
9 much until when we took those positions off in mid-September
10 when we canceled the positions out and replaced those positions
11 with the collateral value that we seized from Lehman's.

12 So it is correct in saying that the amounts were from
13 Tiki, what I don't want to suggest is that those were
14 valuations that we had done every night with the right level of
15 diligence to understand exactly what those things in the market
16 would be worth.

17 THE COURT: Thank you.

18 BY MS. SAWYER:

19 Q You hoped those valuations were accurate enough to report
20 to the investors, correct?

21 A Yes.

22 Q And if you could go back to Defendant's 2554, we were
23 looking at on page 52, the first paragraph at the top.

24 A Yep.

25 Q This paragraph's talking about the bankruptcy claims that

1 might be filed, and I'll give you a minute to look at it,
2 because it's a long paragraph.

3 (Pause)

4 A Yes, read it.

5 Q And that paragraph's generally talking about the
6 bankruptcy claims that QVT has or may file, correct?

7 A Yes.

8 Q And if you look at the last sentence of the paragraph, QVT
9 states, "The valuation of such claims is subject to
10 considerable uncertainty and such valuation may not be
11 indicative of the amount that the fund may ultimately realize
12 upon settlement of the claims," correct?

13 A Correct.

14 Q And QVT didn't disclose in its December 2008 annual
15 financial statements the dollar value of any claims it had
16 asserted against Lehman, did it?

17 A I don't think it did, no.

18 Q In fact, QVT never has disclosed to its investors the
19 dollar amount of any claims it has filed against Lehman,
20 correct?

21 A I think with the numbers being the filings that we made,
22 that we objected to?

23 Q The filings might be in the bankruptcy docket you're
24 saying?

25 A Perhaps I don't know.

1 Q But QVT hasn't made any efforts to advise its investors as
2 to the dollar value of any claims asserted against Lehman,
3 correct?

4 A I don't know of any document where we've actually told
5 with a full 100 percent number.

6 Q And you recall that QVT's investors were concerned about
7 QVT's exposure to Lehman, right?

8 A Yes.

9 Q And when QVT's investors would ask about Lehman and the
10 claims against Lehman, those were just high level discussions
11 that QVT would have with its investors, right?

12 A Yes.

13 Q QVT would tell its investors there's a dispute about the
14 valuation of derivatives and that dispute is sizeable, but
15 wouldn't put any dollar numbers on it, correct?

16 A I can't talk for other people, but myself I did not go
17 into huge amounts of detail on the total value of the claim.
18 Obviously we gave, when we started reporting the value of S25,
19 which was the side pockets, then they had an estimate of the
20 current valuation. But I personally did not discuss the real
21 details of the size of our claim.

22 Q But the disclosure of the S25 or the Lehman side pocket,
23 that didn't reflect the dollar value of the claim being
24 asserted against Lehman, did it?

25 A Just estimates of its value.

1 Q And as you testified on direct, that estimate of a value
2 was the notional, the actual claim number --

3 A Yeah.

4 Q -- asserted against Lehman multiplied by some price that
5 QVT determined, correct?

6 A Yes.

7 Q And what's the current price or percentage that QVT's
8 using to discount that claim value for purposes of the Lehman
9 side pocket?

10 A I don't know what they're currently using, so I haven't
11 been at QVT for a good many months now.

12 Q So you don't know?

13 A I don't know.

14 Q What was the price that you last know?

15 A The last number I knew we changed the methodology a little
16 bit at the end, we based our number on the last number that we
17 had the \$58 million in Lehman's and the concern we had,
18 especially as we went into the discussions through mediation
19 and so that we may know more information about Lehman's
20 positions and where they might settle the transaction. And we
21 didn't -- we wouldn't be able to reflect that number. The
22 instructions we had from the mediator is what was --

23 THE COURT: Stop. Okay. We're not going to go
24 anything that happened --

25 THE WITNESS: Okay.

1 THE COURT: -- in the mediation. I'm sorry to
2 abruptly stop you.

3 THE WITNESS: That's fine.

4 BY MS. SAWYER:

5 Q I think you were explaining the methodology and the
6 question I had was just what was the last price that you recall
7 that was being placed on the Lehman side pocket.

8 A On the LBSF portion of it, I think it was of the order of
9 30 or \$40 million, but don't quote me. Sorry.

10 MS. SAWYER: Your Honor, could we take a brief break?

11 THE COURT: Yes, of course.

12 MS. SAWYER: Thank you.

13 THE COURT: How much more do you think you have, Ms.
14 Sawyer?

15 MS. SAWYER: I think maybe 45 minutes, an hour at the
16 most.

17 THE COURT: Okay. All right. So we're going to
18 shoot for finishing up at 5:30 subject to redirect. Okay.
19 Let's come back in ten minutes, then at 4:15.

20 MS. SAWYER: Thank you.

21 (Recess from 4:05 p.m. until 4:23 p.m.)

22 THE COURT: Welcome back. You're in the homestretch,
23 Mr. Sale.

24 CROSS-EXAMINATION (RESUMED)

25 BY MS. SAWYER:

1 Q I'd like to step back and talk about the margin process in
2 general at QVT. I think you testified on direct that QVT
3 calculated margin on a daily basis using a system called
4 Morador, right?

5 A Yes.

6 Q And that Morador would take valuations of the positions
7 every day from QVT's Tiki system, right?

8 A Yes.

9 Q And QVT also received collateral marks from Lehman on a
10 daily basis for each day -- for each trade, correct?

11 A Yes.

12 Q And the collateral marks from Lehman would be uploaded
13 into the Morador system so they could be compared with QVT's
14 Tiki marks, right?

15 A Yep.

16 Q And you'd try to compare them so you could do direct
17 comparisons trade-by-trade, right?

18 A Yes, basically reconciliation of that comparison.

19 Q And that's what QVT did, that's what QVT's Morador's
20 system did is it --

21 A Yes.

22 Q -- tried to reconcile the valuations received from Lehman
23 with the valuations on its Tiki system, correct?

24 A Yes.

25 Q And so someone could then ask Morador or sit down at

1 Morador and see the comparison between the Lehman values and
2 the Tiki values, correct?

3 A Yes.

4 Q And generally QVT would accept Lehman's values if they
5 were more favorable to QVT, correct?

6 A They were the calculation agent, so they were the ones who
7 determined the amounts of margins, so yes, we would take their
8 values.

9 Q And you would take their values particularly if they were
10 more favorable to QVT, correct?

11 A Yes.

12 Q And QVT could also use the Morador system to just see what
13 its own margin calculations would be, correct?

14 A Yes.

15 Q And if there was an issue related to a discrepancy between
16 the valuations between QVT and Lehman, if that was significant,
17 Ms. Fang would that elevate to you or someone else at QVT,
18 right?

19 A Yes, a small differences, it was a very large portfolio so
20 large differences I'm sure she wouldn't, but if it was a
21 significant position she would normally talk to a trader to see
22 whether or not there was a genuine pricing issue.

23 Q And if it was particularly significant, she might elevate
24 it to you, correct?

25 A She never did. I was normally more involved if there

1 wasn't a real issue, I would normally be talking to say the
2 credit department of the bank just to say that we're not
3 ignoring you, we are actually -- there is a genuine issue in
4 which I'd resolve it.

5 Q Right. And you don't recall her ever elevating an issue
6 to you like that, do you?

7 A Not with Lehman's, no.

8 Q I'd like you to look at Defendant's Exhibit 5169, this is
9 a document that Mr. Tracey showed you on direct, correct?

10 A Yes.

11 Q And Ms. Fang's making the \$13.3 million margin call on the
12 morning of September 16th, 2008 to Lehman, right?

13 A Yes.

14 Q And she didn't just make that number up, did she?

15 A She did not, no.

16 Q And you explained that in order to get to that number,
17 you'd have to take the \$5 million move in Lehman's favor
18 showing up in the Tiki system and net it against the initial
19 margin that QVT had posed with LBSF, correct?

20 A That's what I believed the calculation was, yes.

21 Q But that demand -- so you're essentially demanding the
22 return of all of the initial margin that QVT had posted for
23 LBSF, right?

24 A Yes.

25 Q But that demand for the initial margin is not made

1 explicit in Ms. Fang's e-mail, is it?

2 A It is not, no.

3 Q And it wouldn't have been Ms. Fang's normal process to
4 demand the return of all the initial margin from a bank, would
5 it?

6 A No, I would characterize it slightly differently. We
7 would demand the return of initial margin once a transaction
8 had terminated.

9 Q But a daily margin call like this, it wouldn't have been
10 normal process to try to demand a return of all the initial
11 margin QVT had posted with the bank, would it?

12 A If we terminated all the transactions with somebody the
13 day before, yes, we would.

14 Q But that's not made explicit in this e-mail.

15 A It's not made explicit in this e-mail, no.

16 Q And Ms. Fang normally wouldn't give a person seeking a
17 return of all that initial margin, would she?

18 A Yes, she would. I think if it was during the normal
19 margin process that we'd terminate the transaction and the
20 daily process would be a combination of the change in initial
21 margin and the changing variation margin, so it would be a
22 normal process.

23 To go and renegotiate the margin levels, would not be her
24 responsibility, but just the normal mechanics of a transaction,
25 changing a value or being terminated would be her

1 responsibility.

2 Q And so if Ms. Fang was seeking the return of all of the
3 initial margin from a bank, she would've made that explicit in
4 her request, correct?

5 A I don't know what she would've done. I don't think we
6 ever had this situation before, so I don't know how it would
7 have been.

8 Q But she certainly wouldn't have described it as the mark
9 to market movement from EO 9/12 to 9/15, would she?

10 A Again, I read this it's not clear it's initial margin,
11 it's not a standard e-mail, it was probably something written
12 on the fly.

13 Q And when you talked to Ms. Fang about this e-mail, her
14 memory was that she was standing right behind her telling her
15 to send the e-mail, correct?

16 A I think -- I don't think she -- you know, I'm
17 putting -- I don't think she remembered exactly what was going
18 on. What she said to me was that she remembered that I was
19 behind her.

20 Q And you were behind her directing her to send this e-mail,
21 right?

22 A I don't remember sending this e-mail.

23 Q You didn't send this e-mail, Ms. Fang did, correct?

24 A Yeah.

25 Q And Ms. Fang explained to you that she remembered you

1 standing behind her telling her to send this e-mail.

2 A If that's what she said, yeah.

3 Q I'd like to talk to you a little bit about -- a little bit
4 more about the Lehman side pockets. So you testified I believe
5 on direct that in September 2008 that Lehman -- I'm sorry, QVT
6 created a side pocket in which QVT put all of the Lehman
7 bankruptcy claims, right?

8 A Yes, there was a whole bunch of different entities, and we
9 put all of them in into one bucket.

10 Q And how many claims are we talking about went into this?

11 A There were claims against the prime brokerage unit, I
12 think claims against the repo unit, claims against the U.S.
13 broker dealer, claims against LBSF, LBOTC, one other is the
14 counterpart, just falling out of my brain I'm sorry.

15 Q Are we talking about 25 claims?

16 A No, there was like five or six claims on different
17 business units, but they were sometimes the same -- we took
18 that business units, not in exact legal entities, because our
19 prime brokerage, for example, was over two Lehman entities.

20 Q And when the Lehman side pocket was created, the
21 transactions between LBSF and QVT and Quintessence, that are
22 the subject of these claims, they were moved or they were
23 booked out in QVT's active trading book, correct?

24 A Yes.

25 Q And they were -- and QVT booked out the transactions

1 between QVT and Quintessence and LBSF at the collateral levels
2 that QVT had on its books for those transactions as of
3 September 11th, 2008, right?

4 A Yes.

5 Q But when they were put into the side pocket, the side
6 pocket was not even zero, right?

7 A At that point what we had is we knew we didn't have any
8 derivatives at that point, so they were worth nothing. We had
9 the collateral against it, so we netted the collateral off
10 against it and then we had claims.

11 So we didn't put the -- just to be clear, we didn't put
12 the CDS positions in a side pocket, we put the claim in the
13 side pocket.

14 Q And when you put the claim or claims in this case --

15 A Yes.

16 Q -- into the side pocket, you valued them at zero in
17 September 2008.

18 A Initially, yes.

19 Q And you have an interest in the Lehman side pocket. I
20 believe you testified to that, correct?

21 A I do, yes.

22 Q You said it was in the range of 10 to 20 basis points.
23 I'd like you to look at Defendant's Exhibit 5965. I think the
24 copy in the binder is quite poor, but you can read it better on
25 the screen?

1 A Yeah, it's less words on the screen, yeah.

2 Q And you recognize this document, don't you?

3 A Yes.

4 Q And this is a document that you created, right?

5 A I did, yes.

6 Q And this document reflects the side pocket interest held
7 by a number of individuals at QVT, correct?

8 A Yes.

9 Q It looks like it has Mr. Chu, Mr. Gold, Mr. Wollman,
10 yourself, Mr. Brumm, Mr. Fu, Mr. Cen. Do you see that?

11 A Yes.

12 Q And in preparing this document, Defendant's Exhibit 5965,
13 you endeavored to be as accurate as possible; is that correct?

14 A It was quite a calculation, but I tried my best, yes.

15 Q Okay. And if you look, it -- I'm going to focus on the
16 columns that say 2015 direct and 2015 indirect.

17 A Uh-huh.

18 Q So you broke out the 2015 interest for these individuals
19 into their direct/indirect interests, correct?

20 A Yes.

21 Q And so to determine an individual's total interest in the
22 Lehman side pocket, you need to add their direct interest and
23 their indirect interest together, correct?

24 A Yes.

25 Q You said that you left QVT at the end of 2015.

1 A Yes.

2 Q You were partner when you left, right?

3 A Yes.

4 Q But not a managing member?

5 A I was never a managing member.

6 Q And you left QVT because it became obvious that you
7 weren't going to become a managing member or get promoted any
8 further in the firm, right?

9 A Yes.

10 Q And since you left QVT, you've continued to work for QVT
11 as a consultant relating to this litigation, right?

12 A I have, yes.

13 Q And as part of that departure and the consultancy, you
14 entered into an agreement with QVT that Mr. Tracey showed you,
15 correct?

16 A Yes.

17 Q It looks like it's Claimant's Exhibit 2149.

18 THE COURT: Is it in the other book?

19 THE WITNESS: Yeah.

20 MS. SAWYER: It should be in my book.

21 THE WITNESS: Am I missing it?

22 MS. SAWYER: Oh, somebody's telling me that the tabs
23 are a little hard to follow, like it's hidden behind a tab,
24 it's Claimant's Exhibit 2194.

25 THE WITNESS: 2149?

1 MS. SAWYER: 2149.

2 THE COURT: So it's apparently hidden if you go --

3 THE WITNESS: Do you what it's hidden behind?

4 THE COURT: It's right before 515008.

5 MS. SAWYER: 5008?

6 THE COURT: Yes, it's right before that. It's the
7 exhibit immediately before that.

8 THE WITNESS: Oh, yeah, yeah.

9 MS. SAWYER: Sneaky.

10 THE WITNESS: Yes, sorry.

11 BY MS. SAWYER:

12 Q That's okay. This is the agreement that you looked at
13 with Mr. Tracey, correct?

14 A It is, yes.

15 Q And this is, in fact, your separation agreement from QVT,
16 right?

17 A Yeah.

18 Q And you negotiated this agreement with QVT?

19 A I did, yes.

20 Q And this agreement provides for among other things, create
21 or recover a percentage of any resolution of this matter so
22 long as it's above some minimum threshold, correct?

23 A Yes.

24 Q And so tell me about those negotiations, who was involved?

25 A Myself and -- primarily it was myself, Nick Brum and

1 Arthur Chu.

2 Q And did you have counsel representing you?

3 A I had an employment counsel who reviewed the documents, it
4 wasn't negotiated in parts, just reviewed the overall
5 separation agreement.

6 Q When you say he wasn't reviewing this part, which part are
7 you referring to?

8 A Any negotiations --

9 THE COURT: Hold on, hold on. Mr. Sale, you're not
10 represented by counsel at this moment, are you? Not these
11 folks, personally.

12 THE WITNESS: No, I'm not.

13 THE COURT: Okay. I just want to -- because Ms.
14 Sawyer is asking you questions about your interactions with an
15 attorney, I just wanted to draw to your attention that you are
16 entitled to protection of the attorney/client privilege.

17 THE WITNESS: Okay.

18 THE COURT: And that in response to Ms. Sawyer's
19 questions, you are entitled to not reveal the substance of any
20 communications you may have had with counsel.

21 THE WITNESS: Okay.

22 THE COURT: If you would like to, it is certainly
23 your right to waive the attorney/client privilege --

24 THE WITNESS: Okay.

25 THE COURT: -- but because, as far as I am aware, you

1 are not represented in your individual capacity at this moment
2 in this matter, I just wanted to bring that to your attention.

3 THE WITNESS: Thank you.

4 THE COURT: Okay.

5 MS. SAWYER: And I apologize, Your Honor, I was not
6 trying to --

7 THE COURT: No, I know you weren't trying, but I just
8 thought it was important to make the witness aware of that.

9 MS. SAWYER: And I'll be more sensitive.

10 BY MS. SAWYER:

11 Q Mr. Sale, you said you had counsel review the terms of the
12 agreement generally.

13 A Yes.

14 Q And did QVT have counsel that was representing them in
15 connection with the negotiations?

16 A They had their internal counsel.

17 Q And when you say their internal counsel, who are you
18 referring to?

19 A Fateet (ph), Fateet (indiscernible).

20 Q And at the time of the -- at what time did these
21 negotiations occur?

22 A They were probably -- they probably started seriously
23 negotiating it maybe March or April of 2015. I think this
24 document is signed May. But it was -- it took a while to
25 negotiate.

1 Q And at the time of these negotiations, you were actively
2 involved in the litigation of these claims; is that fair?

3 A Yes.

4 Q You'd spent a lot of effort working in connection with
5 these claims, right?

6 A (indiscernible) yes. For all the claims against the
7 Lehman's entities, but yes.

8 Q And you knew that there was a possibility you might be
9 called as a witness in this litigation at the time you were
10 negotiating this agreement, correct?

11 A It was possible, yes.

12 Q You'd signed the proofs of claim on behalf of QVT,
13 correct?

14 A Uh-huh. Yes.

15 Q And you'd been identified as a fact witness in QVT's
16 interrogatory responses at this time?

17 A Yes.

18 Q And did anyone raise a concern to you that you -- that
19 this agreement, giving you an interest in the litigation might
20 not be permissible?

21 A No.

22 Q And you're aware that Mr. Wollman has been serving as a
23 consultant for this litigation as well since he left QVT,
24 correct?

25 A Yes.

1 Q And Mr. Wollman's being paid on an hourly basis for his
2 consulting services, correct?

3 A I don't know the terms of his transaction.

4 Q You're not aware of how he's being compensated?

5 A I've heard, but I don't know what.

6 Q And was there a discussion of you being compensated on an
7 hourly basis for your consulting services in connection with
8 this litigation?

9 A I don't remember one, no.

10 Q You don't remember asking for that?

11 A I didn't want that.

12 Q You didn't want that. And why didn't you want that?

13 A I wanted to stay involved. I've been working on this the
14 whole of Lehman's claim for the last seven, eight years at this
15 point, seven years. And it was something I wanted to stay
16 involved on the transaction, and I wanted to be compensated as
17 if I still was at QVT for this purpose.

18 Q And prior to your departure from QVT, you were going to
19 share in any recovery of the claim that was recovered in this
20 case.

21 A Yes.

22 Q And you wanted to ensure that notwithstanding your
23 departure from QVT that you be compensated in the same way; is
24 that correct?

25 A That was the idea, yes.

1 Q And that was something you asked for.

2 A I probably did, but the conversations went back and forth,
3 but I think I was one that probably suggested it, but I can't
4 say I explicitly the one who was suggested that.

5 Q And the compensation that you believed you were going to
6 receive, that was in connection with an anticipated management
7 fee being earned by the management company, correct?

8 A Not a management fee, no, an incentive fee.

9 Q An incentive fee. And can you explain to me how that
10 incentive fee would work?

11 A So as -- so a hedge fund received normally or potentially
12 receives two fees, the management fee that you describe, but
13 that is an annual fee. At this point I don't think there's any
14 annual fee being charged on this particular transaction on the
15 side pockets.

16 But also we receive an incentive fee, we get a percentage
17 of profits. That is not done on an individual line item basis,
18 obviously we manage portfolios, so if overall we make money for
19 our investors in a particular year, then they share a portion
20 of that profit with us with QVT with the management company.

21 If we lose money for our investors, then the following
22 year we have to make that back money, and once we -- what's
23 called the high watermark, when we're back to the high
24 watermark, then we'll start earning fees from that point
25 onwards. But it's in the -- it's on a portfolio basis not on a

1 particular transaction or security basis.

2 Q When you were at QVT as a chief financial officer, you
3 would share in that incentive fee that would be paid.

4 A I was a partner and I received bonuses like other people.
5 The amounts were determined by the managing members, there was
6 no explicit guarantee, but if they thought I did a good enough
7 job then I would get a bonus.

8 Q And who else at QVT would share in this incentive fee?

9 A I think all the employees and partners would somehow
10 receive bonuses at the end of each year if they earned it.

11 Q Including all the managing members, correct?

12 A Yes.

13 Q And the managing members would determine how to allocate
14 that incentive fee on an annual basis.

15 A To the extent, yes, on an annual basis if we got -- we got
16 bonuses annually.

17 Q If we could look at Claimant's Exhibit 2149, Section 2(b)
18 which is on the second page.

19 A Is that another hidden one?

20 Q It's the one we were just looking at, so it's the one
21 right before --

22 A Oh, okay.

23 Q -- 5008.

24 A Okay. I'm sorry.

25 Q That's all right.

1 A Yes, sorry.

2 Q So before we go to it specifically --

3 MS. SAWYER: Well, let me strike that.

4 BY MS. SAWYER:

5 Q So this Lehman allocation that's shown in Section 2(b),
6 this is what purports to provide you what you would have earned
7 in connection with this incentive fee if you had stayed at QVT,
8 is that correct?

9 A This is the calculation of what I would receive and what I
10 understand. I wasn't involved obviously in my own bonus
11 amounts in prior years, but what I understand is this was a
12 proxy for what I might have received if I was still at QVT.

13 Q Now, is the incentive fee -- you said it was different
14 than the management fee, correct?

15 A Yes.

16 Q And then is the incentive fee different than something
17 called carried interest?

18 A No, it's the same in this case.

19 Q Okay. What do you mean by in this case?

20 A Sometimes -- it's the difference between a concept of
21 whether you're dealing with a corporate entity or a
22 partnership.

23 Q And so in connection with the Lehman side pocket and the
24 Lehman claims in this situation, other than the incentive fee
25 and the individuals interest in the side pocket, are there

1 other ways that individuals at QVT are going to recover as a
2 result of any claims determination here?

3 A Yes, I think if I understand your question correctly, the
4 indirect column on that chart that we were looking at a few
5 minutes ago, QVT funds, funds managed by QVT purchased QVT
6 interest from investors that wanted to liquidate.

7 So, in effect, the funds bought back their own shares and
8 those shares included at the time S-25 and then when we
9 reorganized the funds it included the CSI, which was the
10 combination of all the side pockets.

11 So if you were an investor in the funds, you indirectly
12 owned some side pocket interest. Did that -- did I make that
13 clear, I'm sorry if --

14 Q I'm not sure if I'm following. So for you, for
15 example --

16 A Yes.

17 Q -- you have an interest in the side pocket.

18 A Yes.

19 Q And you have your Lehman allocation in this agreement
20 we're looking at, correct?

21 A Yes.

22 Q And that Lehman allocation is supposed to reflect your
23 share of any incentive fee resulting from the resolution of
24 these claims, correct?

25 A Yes.

1 Q Other than that, are there any other -- is there any other
2 recovery you're going to receive when these claims are disposed
3 of?

4 A So I also own some QVT 4, which is one of the feeder funds
5 into QVT. And that owns some side pockets.

6 Q And that interest you own in QVT 4, that interest in the
7 side pocket is not reflected on the chart we looked at showing
8 the interest in the side pocket.

9 A That was the indirect column.

10 Q That's the indirect column. Okay. So then other than the
11 direct and indirect columns and your Lehman allocation, are
12 there any other sources of recovery when these claims are
13 disposed for you?

14 A I think that covers it.

15 Q Okay. Now, looking at the Lehman allocation section in
16 this agreement, which is Section 2(b) --

17 A Yeah.

18 Q -- what is the number, the \$58 million, what does that
19 number represent?

20 A That was understanding of what the last most valuation
21 from Lehman Brothers of the claims.

22 Q So the objection number?

23 A I think it's slightly different but.

24 Q Okay. And then what's the JRS percentage, how is that
25 determined?

1 A That is the percentage -- that's the 2.25. It's described
2 a bit further down. That was a number -- that is the amount,
3 that's the percentage of that difference between the final
4 claim and the 58 million that I will receive.

5 Q So that's the percentage that you recover when you take
6 the final claim number and subtract out the 58 million?

7 A Yes, times 2.25 and that will be the valuing claim
8 dollars, and then we have to convert that into actual dollars
9 by multiplying through. If you see further down, it talks
10 about contacts of claim price at 66 and a quarter.

11 Q And that 66 and a quarter, what does that represent?

12 A That represents the current valuation of a claim dollar.
13 I think at the time when we -- Lehman's claims were trading at
14 approximately 66 percent or LBSF claims, rather, were trading
15 at approximately 66 percent, so that was the conversion rate
16 from a claims dollar to an actual dollar.

17 Q And so -- then below that, below these different
18 definitions that you're looking at, there's a schedule of what
19 you might recover based upon what the final claim number is,
20 and assuming that LBSF claims are trading at approximately
21 66.25, correct?

22 A Correct, yes.

23 Q And so if the claim is paid at -- is determined to be \$200
24 million, you'd recover personally \$2.1 million, correct?

25 A With one other caveat. If -- this \$2 million can only be

1 paid out of an allocation. So that first of all relies upon
2 that the management company receives an allocation from the
3 CSI, and that's dependent on other investments in the CSI.

4 Remember we talked about an allocation was on a whole
5 portfolio, so it isn't just driven by the Lehman's claim, the
6 dollars have to be there available to pay as well.

7 Q And so where did the dollars come from to pay it?

8 A Come from the CSI.

9 Q And the CSI is the consolidated special investment --

10 A That's right.

11 Q -- is what the side pocket got moved into over time,
12 correct?

13 A Plus other positions, yes.

14 Q So how does the CSI get dollars in this circumstance?

15 A So if we settle this claim, it'll -- and it monetizes, it
16 gets dollars and there will be an allocation on that. But that
17 will be -- or rather there will be a calculation but you have
18 to then add in the performance of the other instruments that
19 are in that portfolio.

20 So first of all, if there's any losses from previous
21 years, they have to be recovered, and if there are losses from
22 other positions, they have to be paid before there's anything
23 paid to the management company.

24 Q And you said you have to evaluate it or add in the
25 performance of the other instruments in that portfolio. What

1 portfolio -- what else is in that portfolio? Strike that.

2 What portfolio are you referring to?

3 A So the CSI was -- QVT created a lot of side pockets
4 through (indiscernible). The Lehman's one was one called S25,
5 it started at S1, so -- and as part of our restructuring in
6 2012, the funds every investor had some number of side pockets,
7 depending on when they invested. I think the last one was 27
8 or 28.

9 Some -- and some had matured before 2012, but those that
10 hadn't, were all combined into one single fund. So there were
11 a number of different types of instruments in that.

12 Q So the portfolio you're referring to is the portfolio of
13 the combined special investments?

14 A Yes, which was all of the side pockets that were still
15 around in 2012 when we consolidated the funds. I'm sorry.

16 THE COURT: May I ask a question?

17 MS. SAWYER: Yes.

18 THE COURT: When the Lehman side pocket was created,
19 it was one side pocket?

20 THE WITNESS: It was, yes.

21 THE COURT: Okay. And now are you saying that that
22 side pocket is now part of a larger side pocket? In other
23 words, it lives in a side pocket with other non-Lehman
24 positions or investments?

25 THE WITNESS: With other side pockets, yes.

1 THE COURT: Okay.

2 THE WITNESS: So we took --

3 THE COURT: In the restructuring.

4 THE WITNESS: In the restructuring, we took all the
5 side pockets, so every investor had some combination of side
6 pockets. We took them all back into a common pool, and then
7 gave every investor the same dollar value of a single fund,
8 which was the combined --

9 THE COURT: Okay.

10 THE WITNESS: -- side pocket.

11 THE COURT: So is it -- is -- following on what's on
12 the page in 2149 and your testimony, is it accurate that the
13 Lehman allocation in terms of becoming monetized and given to
14 you --

15 THE WITNESS: Yes.

16 THE COURT: -- strike that.

17 Is it correct that for someone who holds an interest
18 in the Lehman side pocket or the Lehman claims how much they
19 actually receive is subject to other deductions and offsets on
20 account of non-Lehman related activity in the side pocket?

21 The last question you asked, you answered of Ms.
22 Sawyer's relating to it depends on how the other investments
23 perform and other costs, suggests that if the only thing that
24 existed were the Lehman claims and the Lehman side pocket and
25 \$50 were coming out of it, you would get the \$50. But that

1 now, the Lehman side pocket lives in a larger pool, and before
2 that \$50 comes out, there might be deductions related to other
3 investments in the portfolio.

4 THE WITNESS: Exactly. But that's --

5 THE COURT: Is that right?

6 THE WITNESS: -- for the managing -- not for the
7 investor, but for the managing --

8 THE COURT: Yes, for the -- thank you.

9 BY MS. SAWYER:

10 Q And so your payment's not only subject to that, but it's
11 also subject to your compliance with the agreement 2194,
12 correct?

13 A Yes.

14 Q 2149.

15 A Yeah.

16 Q And in terms of your obligations under this agreement,
17 that's to cooperate with QVT in the prosecution of these
18 claims, correct?

19 A Yes.

20 Q As you did before, correct?

21 A Yes.

22 Q And that would include testifying as a witness, right?

23 A If they need me, yes.

24 Q What does QVT stand for?

25 A I don't know if it has a definition anymore.

1 Q Did it at one point?

2 A I think so. I think it may have stood for Quantitative
3 Value Trading, but I think it's one of those things that's been
4 lost in the midst of time.

5 MS. SAWYER: May I have a moment, Your Honor?

6 THE COURT: Sure.

7 (Pause)

8 MS. SAWYER: I don't have any further questions.

9 THE COURT: Thank you.

10 MS. SAWYER: But I reserve our right to recall Mr.
11 Sale in Lehman's case-in-chief.

12 THE COURT: Did you hear that last part, Mr. Tracey?

13 MR. TRACEY: They're reserving --

14 THE COURT: The right to recall Mr. Sale in Lehman's
15 case in chief.

16 MR. TRACEY: I'll have to reserve my position on
17 that.

18 THE COURT: Well, why don't -- we can talk about that
19 after Mr. Sale is done for the day.

20 (Pause)

21 REDIRECT EXAMINATION

22 BY MR. TRACEY:

23 Q So there was a number of questions that were asked of you
24 during Ms. Sawyer's cross-examination about the collateral
25 marks that QVT had on its positions basing LBSF, do you recall

1 that?

2 A Yes.

3 Q And there were also a series of questions about
4 communications with investors on September 23rd of the overall
5 results of the QVT funds, correct?

6 A Yes.

7 Q Well, I'd like to go through that with you, maybe starting
8 to get perspective back on September 11th.

9 A Okay.

10 Q What was the last date on which -- for which QVT received
11 a collateral statement from Lehman?

12 A We received one on the Thursday.

13 Q What date is that?

14 A That was the 11th, which was actionable, which was the one
15 we talked about in the testimony as well, the movement on the
16 Friday. I would have to double-check, but we may have received
17 one from Lehman on 9/12, which would've been actionable on
18 9/15, but I don't know if we received that or not.

19 Q Okay. So is it correct to say that the last time -- that
20 the last date on which Lehman the valuation agent provided a
21 collateral valuation to you was for September 11th.

22 MS. SAWYER: Objection, leading.

23 THE COURT: Yes, Ms. Sawyer?

24 MS. SAWYER: Leading.

25 MR. TRACEY: I'm just trying to clarify.

1 BY MR. TRACEY:

2 Q What was the last date on which -- for which Lehman
3 provided a collateral valuation to QVT, to the best of your
4 recollection?

5 A 9/11 for 9/12.

6 Q Okay. And when you say 9/11 for 9/12, is the valuation
7 for 9/11 or for 9/12?

8 A For close of business 9/11, which would have been
9 delivered to us on Friday, September the 12th.

10 Q Okay. And are you aware of any collateral valuation that
11 was given to you by Lehman after that time?

12 A I would have to double-check the records, they may well
13 have given us a valuation on 9/12.

14 Q Okay. Any after that?

15 A No.

16 Q Okay. And the -- is the collateral value that Lehman gave
17 you the same as the replacement cost for a terminated
18 transaction?

19 A No, it's quite different, if you look to just the health
20 warning that Lehman's put on their own collateral on that paper
21 collateral call, it very explicitly talks about all the
22 differences between what the collateral call is or what the
23 mark to market is, and the actual prices in the market, so we
24 were -- the collateral we were -- the presses we were using,
25 you know, this concept of an exit price where we could have

1 monetized the portfolio, which is very different from where we
2 could have actually repurchased the portfolio.

3 If you think about it on the week before we were talking
4 about what was the portfolio worth, what could we sell it for.
5 But on the day when we had to replace the transactions it was
6 the reverse, it was what would someone sell us, what could we
7 buy the portfolio for, how much would it cost us to buy the
8 portfolio.

9 Q Okay. So let's move to September 15th, and I'll take an
10 example. Are you aware that QVT had PCDS positions with LBSF
11 on Santander in there?

12 A Yes.

13 MS. SAWYER: Objection, beyond the scope of cross.

14 MR. TRACEY: I'm pursuing exactly the point that Ms.
15 Sawyer pursued.

16 THE COURT: I think what Mr. Tracey is doing is
17 leading up to something by using an example of a particular
18 position. Is that --

19 MR. TRACEY: That's precisely right.

20 THE COURT: Okay.

21 MS. SAWYER: Okay.

22 THE COURT: Still objection?

23 MS. SAWYER: We'll see where it goes.

24 THE COURT: Okay. Go ahead.

25 BY MR. TRACEY:

1 Q Okay. So on September 15th, what happened to that
2 Santander and their PCDS?

3 THE COURT: So I can tell that they're still
4 objecting.

5 MS. SAWYER: We just haven't stood up yet.

6 THE COURT: Even though their mouths aren't moving.
7 And I think the point is that it sounds as if you are precisely
8 asking literally what happened to that Santander position and
9 that was not part of -- that's beyond the scope.

10 MR. TRACEY: But that's not what I'm doing, Your
11 Honor.

12 THE COURT: I know that's not what you're doing. So
13 I think we just have to give Mr. Tracey a little bit of margin
14 here, so to speak, and I'm going to assume that you're going to
15 connect it up to the larger issues relating to the valuation of
16 PCDS.

17 MR. TRACEY: Absolutely, Your Honor, and I'm trying
18 to use an example to make it clear, and then I will tie it to
19 the exact questioning that Ms. Sawyer asked.

20 MS. SAWYER: Well, see where it goes, but to the
21 extent it's tied up with valuation of PCDS or something like
22 that, that's certainly beyond the scope of my cross as well.

23 MR. TRACEY: I'm just using a PCDS as an example, so
24 that we can understand the difference between a collateral mark
25 and replacement value and what happened to the marking process

1 from September 15th to September 23rd, that's what we're trying
2 to do here. And that's important information for this Court to
3 understand.

4 THE COURT: All right. So let's see where it goes
5 and then you can renew your objection and/or take it up on
6 redirect. All right. Go ahead, please.

7 BY MR. TRACEY:

8 Q Just to be clear, I'm talking about the Santander PCDS,
9 just as an example of a position --

10 A Okay.

11 Q -- opposite to LBSF.

12 A Okay.

13 Q What happened to that position on September 15th?

14 A It was terminated.

15 Q Okay. So there was no position adverse to LBSF as of
16 September 15th in that Santander proceedings; is that correct?

17 A It was closed out, terminated on September the 15th, yes.

18 Q Okay. And did QVT do anything to try to update its marks
19 in its books with respect to that example of a Santander PCDS
20 that was terminated on September 15th?

21 A No.

22 Q And would it be normal in the course of business to update
23 any valuations for a terminated position?

24 A No.

25 Q So let's take September 16th, sample PCDS with Santander,

1 was there any effort to update the valuation in that terminated
2 transaction on September 16th?

3 A No.

4 Q So can you tell anything, anything at all about the value
5 of the positions with Lehman based on marks on September 16th?

6 A No.

7 Q You can't -- can you tell anything about a replacement
8 value from those marks?

9 A No.

10 Q Can you even tell anything about the mid-mark on September
11 16th?

12 A Before September 16th?

13 Q Yeah.

14 A No.

15 Q September 17th?

16 A No.

17 Q 18th?

18 A Again, no.

19 Q All the way up to the 23rd?

20 A All no.

21 Q And if you looked in the books and records of QVT, where
22 would you look for replacement value of the Lehman marks on
23 September 16th?

24 A Trying to understand your question. If we were trying to
25 estimate, we would look into the side pockets.

1 Q But is there anything in the marks on September 16th on
2 the Tiki system that shows you what the replacement value would
3 be for that Santander PCDS on September 16th?

4 A No, not at all.

5 Q Or on September 15th?

6 A No.

7 Q And I think you've testified to this before, but was there
8 any value placed on the Lehman claim in the books and records
9 of QVT at any time in September?

10 A No.

11 Q So you couldn't find that in the books and records, could
12 you?

13 A It wasn't there.

14 Q Ms. Sawyer asked you some questions about the disclosure
15 to investors. I'd like you to look at Exhibit 5254.

16 A The annual financial statements, yes.

17 Q Correct.

18 A Yeah.

19 Q I'd like to direct your attention to the passage at the
20 bottom of page 51. And I think, do you recall Ms. Sawyer
21 reading to you the section beginning "the net value of these
22 derivative contracts"?

23 A Yes, I do.

24 Q And was that an accurate statement at the time?

25 A It's true.

1 Q Including the part that says, "The funds did not have
2 sufficient collateral to cover the replacement cost and mark to
3 market gains in respect to such derivative positions, resulting
4 from their rapid increase in value, following Lehman's
5 failure"?

6 A That's also a true statement.

7 Q Let me direct your attention to page 52 of Exhibit 5254.

8 A Yes.

9 Q And the -- would you read to yourself the first paragraph
10 on that page?

11 A Yes.

12 Q And was that a disclosure to your investors relating to
13 the Lehman claims?

14 A Yes.

15 Q Were you involved in preparing these financial statements
16 and these notes?

17 A Yes.

18 Q And did you work with PWC to make sure that they were
19 comfortable with the notes and financial statements?

20 A I did, yes.

21 Q And did they -- were they comfortable with that disclosure
22 to the investors?

23 A Yes.

24 Q Did they approve it?

25 A Yes.

1 Q Did they give you an unqualified opinion?

2 A Yes.

3 Q I want to turn to the interest in the side pocket that Ms.
4 Sawyer talked to you about --

5 A Uh-huh.

6 Q -- Exhibit 5965.

7 A Yes.

8 Q I'm having a hard time reading it, but can you tell me the
9 total direct and indirect interest of all of the insiders
10 listed there in the Lehman side pocket?

11 A As of 2015.

12 Q As of 2015.

13 A It would be the sum of the 2015 direct column and 2015, so
14 for all QVT people, it's -- looking for just the names listed
15 or the total QVT people, I'm sorry?

16 Q Any QVT people, is it --

17 A Any QVT people, the direct is 9.68 I think it says there
18 and the indirect is 8.13, so what's that, approximately 17
19 percent, 18 percent.

20 Q Okay. And so approximately 83 percent of the side pocket
21 is owned by non-QVT investors?

22 A Yes.

23 Q And I'd just like to clarify the questions that you were
24 asked about the carried interest.

25 A Uh-huh.

1 Q I think you were asking questions about what if a payment
2 were made from Lehman as a result of this claim.

3 A Yes.

4 Q And if that payment, if it were made, go into the -- what
5 is now the CSI, the consolidated --

6 A Yes.

7 Q -- what do you call it, the CSI?

8 A Consolidated Speculative Interest I think it's --

9 Q Right. And that's the side pocket of side pockets, right?

10 A Yes.

11 Q So it has a lot of things other than the Lehman claims.

12 A I don't know how much is left in there now, there's a
13 number of things that have fallen off, but it does, I believe,
14 have positions in it.

15 Q Okay. And if there is a payment to the CSI, do I
16 understand correctly that the management company may have a
17 right to a carried interest in those CSI profits.

18 A It may have, yes.

19 Q Okay. But the right of the general partner to receive
20 that carried interest depends on the performance of all of the
21 investments in the CSI, not just the Lehman claims.

22 A Just the portfolio.

23 THE COURT: Just --

24 MS. SAWYER: I'm just going --

25 THE COURT: Ms. Sawyer.

1 MS. SAWYER: -- to object, there's a lot of leading
2 going on.

3 MR. TRACEY: I am leading, but I'm just trying to
4 clarify. I can ask more general questions.

5 THE COURT: Well, I think the question you just asked
6 is a better form of a question that I attempted to ask.

7 MR. TRACEY: That's what I was trying to do, Your
8 Honor, but not to --

9 THE COURT: You were trying to. I think since we are
10 just trying to clarify the prior questions, a little bit of
11 leading I don't have a problem with, so do you remember the
12 question, Mr. Sale?

13 THE WITNESS: Can you repeat it, just to make sure?

14 MR. TRACEY: Sure.

15 BY MR. TRACEY:

16 Q Does the right of the GP to receive a carried interest
17 depend on the performance of all of the positions in the CSI?

18 A Yes.

19 Q And if there were a -- again a hypothetical a \$100 gain in
20 the Lehman claims, but a \$100 loss in the performance of other
21 positions, could that negate the right of the GP to receive the
22 carried interest?

23 A Yes, because the investors got zero return. The investors
24 had zero return.

25 MR. TRACEY: Can you give me a moment, Your Honor?

1 THE COURT: Sure.

2 (Pause)

3 MR. TRACEY: I have nothing further, thank you.

4 THE COURT: All right. Thank you.

5 MS. SAWYER: I don't have any further questions.

6 THE COURT: All right. Thank you very much, Mr.

7 Sale, you can step down.

8 THE WITNESS: Thank you.

9 THE COURT: All right. Shall we take a few minutes
10 to talk about tomorrow and anything else that you might want to
11 talk about?

12 MS. SAWYER: Yes. I've also been reminded that we
13 have transcripts from Tuesday to hand out --

14 THE COURT: Sure, thank you.

15 MS. SAWYER: -- that I should've probably done
16 earlier.

17 THE COURT: Okay. And so tomorrow is Friday the 17th
18 and we're scheduled to have Mr. Newman.

19 MR. TRACEY: Yes, Your Honor.

20 THE COURT: And I have a 9:30 tomorrow morning which
21 I should be able to be done by 10 o'clock, and then Mr. Newman
22 has a -- has to conclude by 2, correct?

23 MR. TRACEY: Yes, Your Honor.

24 THE COURT: So is that going to be -- are we going to
25 be stressed to get that done in terms of having a very short

1 lunch, just to plan the day.

2 MR. TRACEY: We think about two hours for direct.

3 THE COURT: Okay.

4 MS. SAWYER: We may be stressed for time if we only
5 have four hours.

6 THE COURT: Okay. And the 2 o'clock is a hard stop?
7 Yes?

8 MR. TRACEY: It's his hard stop. We can pursue it
9 again today and find out, but his lawyer -- we've been in touch
10 with his lawyer and he's the one who's told us.

11 THE COURT: Is he not local?

12 MS. KELLER: He is, but he's leaving town with his
13 family for a vacation.

14 THE COURT: I see, for President's week, I see.
15 Okay. Well I can't really offer another solution, I have an
16 emergency DIP financing hearing tomorrow morning, so I can't
17 push them off. So if it doesn't kill you, we can take a 20
18 minute lunchbreak, we'll just do the best we can.

19 And if he does have, you know, a half hour of
20 flexibility just to -- I mean, the 2 o'clock is an excess of
21 caution time and we could get a little bit of leeway. So we'll
22 just have to deal with it.

23 All right. And then anything else? Ms. Keller?

24 MS. KELLER: Your Honor, just looking down the road a
25 little bit.

1 THE COURT: Yes, sure.

2 MS. KELLER: We would like to get a sense of the
3 order or at least the identity of the witnesses.

4 THE COURT: Well, let me not get that far down the
5 road. Let me go down the road to the 27th where I still have
6 to hear back from you regarding Mr. Dezzazio (ph).

7 MS. KELLER: I believe that we have reached an
8 agreement on the submission of his deposition in lieu of
9 testimony.

10 THE COURT: In lieu of his testimony.

11 MS. KELLER: Yes.

12 MS. SAWYER: I think that that's true.

13 THE COURT: Okay.

14 MS. SAWYER: And so, yes --

15 THE COURT: All right.

16 MS. SAWYER: -- I think that's been resolved.

17 THE COURT: So that means that on the 27th, we will
18 be having Mr. Gold and Mr. Fox.

19 MS. KELLER: And who? No, Lehman will be calling Mr.
20 Fox on their case.

21 THE COURT: Okay. On the schedule that I have for
22 Mr. Tracey it indicates Mr. Fox on that day, is that incorrect?

23 MR. TRACEY: We reached agreement with Lehman
24 to --

25 THE COURT: Go out of order?

1 MR. TRACEY: -- to wait for them to call Mr. Fox and
2 then we'll cross-examine.

3 THE COURT: I see. So on the 27th then it'll be only
4 Mr. Gold.

5 MR. TRACEY: Yes.

6 THE COURT: Okay.

7 MR. TRACEY: And, oh, we may also need a witness from
8 Bloomberg, the interest rate swap issue.

9 MS. SAWYER: I think that's perhaps something we
10 should discuss.

11 MR. TRACEY: Okay.

12 MS. SAWYER: I'm not sure what the issue is, but it
13 sounds like something we should potentially guess.

14 THE COURT: Okay. So just in terms of planning, that
15 day is only a half day, and I have to be on a 2 p.m. train, so
16 that that means for my sanity, I need a hard stop at like
17 12:30.

18 MR. TRACEY: So we'll consult with Lehman about how
19 long we expect Mr. Gold to take, and if that's not going to
20 work we'll do something else.

21 MS. SAWYER: What do you mean do something else?

22 MR. TAMBE: Who is the next for you?

23 MS. SAWYER: Nicholas.

24 THE COURT: On the 28th it says McDougal and
25 Nicholas.

1 MR. TAMBE: I'm fine with --

2 THE COURT: Okay. So all right you'll --

3 MR. TRACEY: We'll consult and we'll supply a new
4 schedule, hopefully tomorrow.

5 THE COURT: Okay. Whenever, that's fine. Okay. So,
6 Ms. Keller, and you wanted to go into Lehman's case in chief.

7 MS. KELLER: Just if we could get a heads-up on the
8 identity and order of their witnesses.

9 MS. SAWYER: I think by some time mid-week, this
10 coming week we should be able to do that. We need to have a
11 pretty good sense as to when QVT's case will finish, just given
12 our witnesses availabilities to try to -- and we have a lot of
13 -- we have a week, but we also have an isolated days, so trying
14 to figure out what makes the most sense.

15 THE COURT: Right.

16 MS. SAWYER: So I think by the middle of next week we
17 should be able to have something for QVT.

18 THE COURT: Is that all right?

19 MS. KELLER: The middle of next week, Your Honor?

20 THE COURT: Yeah.

21 MS. KELLER: Okay. And one last thing on the last
22 schedule that we handed out, we had moved Professor Gold in to
23 March 20th for direct and rebuttal, rather than bring him back
24 from London twice to testify in court. And then Mr. Henderson,
25 Lehman's expert can go on after him, but that I've not heard

1 back from them as to whether that's acceptable.

2 MR. TAMBE: What am I supposed to say.

3 MS. SAWYER: I don't think we knew this was an issue,
4 so.

5 MR. TAMBE: In principle, we're fine with Professor
6 Gold and if he is to testify, to testify around the 20th and --

7 THE COURT: I think Ms. Keller's point is that direct
8 and rebuttal at the same time and not have to -- well, it's
9 already -- yeah.

10 MR. TAMBE: That should be fine.

11 MS. KELLER: Thank you.

12 THE COURT: Okay. That sounds like it's okay.

13 MR. TAMBE: Yes.

14 THE COURT: Okay. I think we're done for the day.

15 Thank you very much, we'll see you in the morning.

16 (Whereupon, these proceedings were concluded at 5:23 p.m.)

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I N D E X

T E S T I M O N Y

WITNESS	EXAM BY	PAGE	LINE
Yi Cen	Mr. Tracey		
Yi Cen	Mr. Andreoli		
Yi Cen	Mr. Tracey		
Julian Sale	Mr. Tracey		
Julian Sale	Ms. Sawyer		

C E R T I F I C A T I O N

We, Lisa Beck, Jamie Gallagher and Sheila Orms certify that the foregoing transcript is a true and accurate record of the proceedings.

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